

**AMENDMENT IN THE NATURE OF A SUBSTITUTE**  
**TO H.R. 45**  
**OFFERED BY MR. BARTON**

Strike all after the enacting clause and insert the following:

**1 SECTION 1. AMENDMENT OF NUCLEAR WASTE POLICY ACT**  
**2 OF 1982.**

**3 The Nuclear Waste Policy Act of 1982 is amended**  
**4 to read as follows:**

**5 “SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

**6 “(a) SHORT TITLE.—This Act may be cited as the**  
**7 ‘Nuclear Waste Policy Act of 1999’.**

**8 “(b) TABLE OF CONTENTS.—**

“Sec. 1. Short title and table of contents.

“Sec. 2. Definitions.

“Sec. 3. Findings and purposes.

**“TITLE I—INTEGRATED MANAGEMENT SYSTEM**

“Sec. 101. Transportation.

“Sec. 102. Transportation planning.

“Sec. 103. Transportation requirements.

“Sec. 104. Interim storage.

“Sec. 105. Permanent disposal.

“Sec. 106. Land withdrawal.

“Sec. 107. Applicability.

**“TITLE II—LOCAL RELATIONS**

“Sec. 201. On-site representative.

“Sec. 202. Benefits agreements.

“Sec. 203. Content of agreements.

“Sec. 204. Acceptance of benefits.

“Sec. 205. Restriction on use of funds.

“Sec. 206. Initial land conveyances.

“Sec. 207. Payments in lieu of taxes.

## “TITLE III—FUNDING AND ORGANIZATION

- “Sec. 301. Nuclear Waste Fund.
- “Sec. 302. Office of Civilian Radioactive Waste Management.
- “Sec. 303. Defense contribution.

## “TITLE IV—GENERAL AND MISCELLANEOUS PROVISIONS

- “Sec. 401. Compliance with other laws.
- “Sec. 402. Water rights.
- “Sec. 403. Judicial review of agency actions.
- “Sec. 404. Licensing of facility expansions and transshipments.
- “Sec. 405. Siting a second repository.
- “Sec. 406. Financial arrangements for low-level radioactive waste site closure.
- “Sec. 407. Nuclear Regulatory Commission training authorization.
- “Sec. 408. Subseabed or ocean water disposal.
- “Sec. 409. Purchase of American-made equipment and products.
- “Sec. 410. Separability.

## “TITLE V—NUCLEAR WASTE TECHNICAL REVIEW BOARD

- “Sec. 501. Definitions.
- “Sec. 502. Nuclear Waste Technical Review Board.
- “Sec. 503. Functions.
- “Sec. 504. Investigatory powers.
- “Sec. 505. Compensation of members.
- “Sec. 506. Staff.
- “Sec. 507. Support services.
- “Sec. 508. Report.
- “Sec. 509. Authorization of appropriations.
- “Sec. 510. Termination of the board.

1   **“SEC. 2. DEFINITIONS.**

2       “For purposes of this Act:

3           “(1) ACCEPT, ACCEPTANCE.—The terms ‘ac-

4       cept’ and ‘acceptance’ mean the Secretary’s act of

5       taking possession of spent nuclear fuel or high-level

6       radioactive waste.

7           “(2) AFFECTED INDIAN TRIBE.—The term ‘af-

8       fected Indian tribe’ means an Indian tribe whose

9       reservation is surrounded by or borders on an af-

10      fected unit of local government, or whose federally

11      defined possessory or usage rights to other lands

1 outside of the border of the Indian tribe's reserva-  
2 tion arising out of congressionally ratified treaties  
3 may be affected by the locating of an interim storage  
4 facility or repository, if the Secretary finds, upon pe-  
5 tition of the appropriate government officials of the  
6 Indian tribe, that such affects are both substantial  
7 and adverse to the Indian tribe.

8 “(3) AFFECTED UNIT OF LOCAL GOVERN-  
9 MENT.—The term ‘affected unit of local government’  
10 means the unit of local government with jurisdiction  
11 over the site of a repository or interim storage facil-  
12 ity. Such term may, at the discretion of the Sec-  
13 retary, include other units of local government that  
14 are contiguous with such unit.

15 “(4) ATOMIC ENERGY DEFENSE ACTIVITY.—  
16 The term ‘atomic energy defense activity’ means any  
17 activity of the Secretary performed in whole or in  
18 part in carrying out any of the following functions:

19 “(A) Naval reactors development.

20 “(B) Weapons activities including defense  
21 inertial confinement fusion.

22 “(C) Verification and control technology.

23 “(D) Defense nuclear materials produc-  
24 tion.

1                   “(E) Defense nuclear waste and materials  
2                   byproducts management.

3                   “(F) Defense nuclear materials security  
4                   and safeguards and security investigations.

5                   “(G) Defense research and development.

6                   “(H) Nuclear nonproliferation.

7                   “(5) CIVILIAN NUCLEAR POWER REACTOR.—  
8                   The term ‘civilian nuclear power reactor’ means a ci-  
9                   vilian nuclear power plant required to be licensed  
10                  under section 103 or 104 b. of the Atomic Energy  
11                  Act of 1954 (42 U.S.C. 2133, 2134(b)).

12                  “(6) COMMISSION.—The term ‘Commission’  
13                  means the Nuclear Regulatory Commission.

14                  “(7) DEPARTMENT.—The term ‘Department’  
15                  means the Department of Energy.

16                  “(8) DISPOSAL.—The term ‘disposal’ means the  
17                  emplacement in a repository of spent nuclear fuel,  
18                  high-level radioactive waste, or other highly radio-  
19                  active material with no foreseeable intent of recov-  
20                  ery, whether or not such emplacement permits recov-  
21                  ery of such material for any future purpose.

22                  “(9) DISPOSAL SYSTEM.—The term ‘disposal  
23                  system’ means all natural barriers and engineered  
24                  barriers, and engineered systems and components,

1       that prevent the release of radionuclides from the  
2       repository.

3               “(10) ENGINEERED BARRIERS.—The term ‘en-  
4       gineered barriers’ means man-made components of a  
5       disposal system, including the spent nuclear fuel or  
6       high-level radioactive waste form, spent nuclear fuel  
7       package or high-level radioactive waste package, and  
8       other materials placed over and around such pack-  
9       ages.

10              “(11) HIGH-LEVEL RADIOACTIVE WASTE.—The  
11       term ‘high-level radioactive waste’ means—

12                   “(A) the highly radioactive material result-  
13       ing from the reprocessing in the United States  
14       of spent nuclear fuel, including liquid waste  
15       produced directly in reprocessing and any solid  
16       material derived from such liquid waste that  
17       contains fission products in sufficient con-  
18       centrations;

19                   “(B) the highly radioactive material result-  
20       ing from atomic energy defense activities; and

21                   “(C) any other highly radioactive material  
22       that the Commission, consistent with existing  
23       law, determines by rule requires permanent iso-  
24       lation.

1           “(12) FEDERAL AGENCY.—The term ‘Federal  
2           agency’ means any Executive agency, as defined in  
3           section 105 of title 5, United States Code.

4           “(13) INDIAN TRIBE.—The term ‘Indian tribe’  
5           means any Indian tribe, band, nation, or other orga-  
6           nized group or community of Indians recognized as  
7           eligible for the services provided to Indians by the  
8           Secretary of the Interior because of their status as  
9           Indians including any Alaska Native village, as de-  
10          fined in section 3(c) of the Alaska Native Claims  
11          Settlement Act (43 U.S.C. 1602(c)).

12          “(14) INTEGRATED MANAGEMENT SYSTEM.—  
13          The term ‘integrated management system’ means  
14          the system developed by the Secretary for the ac-  
15          ceptance, transportation, storage, and disposal of  
16          spent nuclear fuel and high-level radioactive waste.

17          “(15) INTERIM STORAGE FACILITY.—The term  
18          ‘interim storage facility’ means a facility designed  
19          and constructed for the receipt, handling, possession,  
20          safeguarding, and storage of spent nuclear fuel and  
21          high-level radioactive waste in accordance with title  
22          I of this Act.

23          “(16) INTERIM STORAGE FACILITY SITE.—The  
24          term ‘interim storage facility site’ means the specific  
25          site within Area 25 of the Nevada Test Site that is

1 designated by the Secretary and withdrawn and re-  
2 served in accordance with this Act for the location  
3 of the interim storage facility.

4 “(17) LOW-LEVEL RADIOACTIVE WASTE.—The  
5 term ‘low-level radioactive waste’ means radioactive  
6 material that—

7 “(A) is not spent nuclear fuel, high-level  
8 radioactive waste, transuranic waste, or byprod-  
9 uct material as defined in section 11 e.(2) of  
10 the Atomic Energy Act of 1954 (42 U.S.C.  
11 2014(e)(2)); and

12 “(B) the Commission, consistent with ex-  
13 isting law, classifies as low-level radioactive  
14 waste.

15 “(18) METRIC TONS URANIUM AND MTU.—  
16 The terms ‘metric tons uranium’ and ‘MTU’ mean  
17 the amount of uranium in the original unirradiated  
18 fuel element whether or not the spent nuclear fuel  
19 has been reprocessed.

20 “(19) NUCLEAR WASTE FUND.—The term ‘Nu-  
21 clear Waste Fund’ means the Nuclear Waste Fund  
22 established in the United States Treasury before the  
23 date of enactment of this Act under section 302(c)  
24 of the Nuclear Waste Policy Act of 1982.

1           “(20) OFFICE.—The term ‘Office’ means the  
2           Office of Civilian Radioactive Waste Management es-  
3           tablished within the Department before the date of  
4           enactment of this Act under section 304(a) of the  
5           Nuclear Waste Policy Act of 1982.

6           “(21) PACKAGE.—The term ‘package’ means  
7           the primary container that holds, and is in direct  
8           contact with, solidified high-level radioactive waste,  
9           spent nuclear fuel, or other radioactive materials  
10          and any overpack that are emplaced at a repository.

11          “(22) PROGRAM APPROACH.—The term ‘pro-  
12          gram approach’ means the Civilian Radioactive  
13          Waste Management Program Plan, dated July 1998,  
14          as modified by this Act, and as amended from time  
15          to time by the Secretary in accordance with this Act.

16          “(23) REPOSITORY.—The term ‘repository’  
17          means a system designed and constructed under title  
18          I of this Act for the permanent geologic disposal of  
19          spent nuclear fuel and high-level radioactive waste,  
20          including both surface and subsurface areas at  
21          which spent nuclear fuel and high-level radioactive  
22          waste receipt, handling, possession, safeguarding,  
23          and storage are conducted.

24          “(24) SECRETARY.—The term ‘Secretary’  
25          means the Secretary of Energy.



1           “(25) SITE CHARACTERIZATION.—The term  
2           ‘site characterization’ means activities, whether in a  
3           laboratory or in the field, undertaken to establish  
4           the geologic condition and the ranges of the param-  
5           eters of the Yucca Mountain site relevant to the lo-  
6           cation of a repository, including borings, surface ex-  
7           cavations, excavations of exploratory facilities, lim-  
8           ited subsurface lateral excavations and borings, and  
9           in situ testing needed to evaluate the licensability of  
10          the Yucca Mountain site for the location of a reposi-  
11          tory, but not including preliminary borings and geo-  
12          physical testing needed to assess whether site char-  
13          acterization should be undertaken.

14          “(26) SPENT NUCLEAR FUEL.—The term  
15          ‘spent nuclear fuel’ means fuel, other than foreign  
16          spent nuclear fuel, as defined in section 131 f.(4) of  
17          the Atomic Energy Act of 1954 (42 U.S.C.  
18          2160(f)(4)), that has been withdrawn from a nuclear  
19          reactor following irradiation, the constituent ele-  
20          ments of which have not been separated by reproc-  
21          essing.

22          “(27) STORAGE.—The term ‘storage’ means re-  
23          tention of spent nuclear fuel or high-level radioactive  
24          waste with the intent to recover such waste or fuel  
25          for subsequent use, processing, or disposal.

1           “(28) WITHDRAWAL.—The term ‘withdrawal’  
2           has the same definition as that set forth in the Fed-  
3           eral Land Policy and Management Act (43 U.S.C.  
4           1702 et seq.).

5           “(29) YUCCA MOUNTAIN SITE.—The term  
6           ‘Yucca Mountain site’ means the area in the State  
7           of Nevada that is withdrawn and reserved in accord-  
8           ance with this Act for the location of a repository.

9   **“SEC. 3. FINDINGS AND PURPOSES.**

10          “(a) FINDINGS.—The Congress finds that—

11               “(1) while spent nuclear fuel can be safely  
12               stored at reactor sites, the expeditious movement to  
13               and storage of such spent nuclear fuel at a central-  
14               ized Federal facility will enhance the Nation’s envi-  
15               ronmental protection;

16               “(2) while the Federal Government has the re-  
17               sponsibility to provide for interim storage and per-  
18               manent disposal of spent nuclear fuel and high-level  
19               radioactive waste to protect the public health and  
20               safety and the environment, the costs of such stor-  
21               age and disposal should be the responsibility of the  
22               generators and owners of such waste and fuel, in-  
23               cluding the Federal Government;

24               “(3) in the interests of protecting the public  
25               health and safety and the environment, promoting

1 the Nation's energy security, and ensuring the Sec-  
2 retary's ability to commence acceptance of spent nu-  
3 clear fuel and high-level radioactive waste by June  
4 30, 2003, it is necessary for Congress to authorize  
5 the interim storage facility;

6 “(4) deficit-control measures designed to limit  
7 appropriation of general revenues have limited the  
8 availability of the Nuclear Waste Fund for its in-  
9 tended purposes and threaten to undermine the re-  
10 pository program; and

11 “(5) the Federal Government has the responsi-  
12 bility to provide for the permanent disposal of waste  
13 generated from United States atomic energy defense  
14 activities.

15 “(b) PURPOSES.—The purposes of this Act are—

16 “(1) to direct the Secretary to develop an inte-  
17 grated management system in accordance with this  
18 Act so that the Department can accept spent nuclear  
19 fuel and high-level radioactive waste for interim stor-  
20 age commencing June 30, 2003, and for permanent  
21 disposal at a repository commencing January 17,  
22 2010;

23 “(2) to authorize the Secretary to take title to  
24 spent nuclear fuel and store it on civilian nuclear  
25 power reactor sites in order to provide relief from

1 the financial and other burdens imposed on the own-  
2 ers and operators of such reactors by the Secretary's  
3 failure to accept spent nuclear fuel in accordance  
4 with section 302(a)(5)(B) of the Nuclear Waste Pol-  
5 icy Act of 1982;

6 “(3) to provide for the siting, construction, and  
7 operation of a repository for permanent geologic dis-  
8 posal of spent nuclear fuel and high-level radioactive  
9 waste in order to adequately protect the public  
10 health and safety and the environment;

11 “(4) to ensure that consumers' contributions to  
12 the Nuclear Waste Fund are solely dedicated to the  
13 purposes for which the Fund was established; and

14 “(5) to provide a schedule and process for the  
15 expeditious and safe development and commence-  
16 ment of operation of an integrated management sys-  
17 tem and any necessary modifications to the trans-  
18 portation infrastructure to ensure that the Secretary  
19 can accept spent nuclear fuel and high-level radio-  
20 active waste.

21 **“TITLE I—INTEGRATED**  
22 **MANAGEMENT SYSTEM**

23 **“SEC. 101. TRANSPORTATION.**

24 “(a) IN GENERAL.—The Secretary shall take those  
25 actions that are necessary and appropriate to ensure that

1 the Secretary is able to accept and transport spent nuclear  
2 fuel and high-level radioactive waste by June 30, 2003.  
3 The Secretary shall make use of the most safe and effi-  
4 cient method available to transport spent nuclear fuel and  
5 high-level radioactive waste to the interim storage facility  
6 and the Yucca Mountain site. To the extent practicable,  
7 the Secretary shall avoid the shipment of spent nuclear  
8 fuel and high-level radioactive waste through the Las  
9 Vegas metropolitan area.

10 “(b) INTERMODAL TRANSFER.—In the event the Sec-  
11 retary determines there is a need for rail to truck inter-  
12 modal transfer, the Secretary shall do the following:

13 “(1) Develop the capability to commence rail to  
14 truck intermodal transfer at Caliente, Nevada, by  
15 June 30, 2003.

16 “(2) Acquire lands and rights-of-way necessary  
17 to commence intermodal transfer at Caliente, Ne-  
18 vada.

19 “(3) Acquire and develop on behalf of, and  
20 dedicate to, the City of Caliente, Nevada, parcels of  
21 land and rights-of-way as required to facilitate re-  
22 placement of land and city wastewater disposal ac-  
23 tivities necessary to commence intermodal transfer  
24 pursuant to this Act. Replacement of land and city

1       wastewater disposal activities shall occur by June  
2       30, 2003.

3               “(4) Within 6 months of the Secretary’s deter-  
4       mination of a need for rail to truck intermodal  
5       transfer—

6               “(A) publish in the Federal Register a no-  
7       tice containing a legal description of the sites  
8       and rights-of-way to be acquired under this  
9       subsection; and

10              “(B) file copies of a map of such sites and  
11       rights-of-way with the Congress, the Secretary  
12       of the Interior, the State of Nevada, the Archi-  
13       vist of the United States, the Board of Lincoln  
14       County Commissioners, and the Caliente City  
15       Council.

16       Such map and legal description shall have the same  
17       force and effect as if they were included in this Act.

18       The Secretary may correct clerical and typographical  
19       errors in legal descriptions and make minor adjust-  
20       ments in the boundaries.

21       For purposes of carrying out this subsection, the Commis-  
22       sion shall enter into a Memorandum of Understanding  
23       with the City of Caliente and Lincoln County, Nevada, to  
24       provide advice to the Commission regarding intermodal  
25       transfer and to facilitate on-site representation. Reason-

1 able expenses of such representation shall be paid by the  
2 Secretary.

3 “(c) HEAVY-HAUL TRANSPORTATION ROUTE.—

4 “(1) DESIGNATION OF ROUTE.—The route for  
5 the heavy-haul truck transport of spent nuclear fuel  
6 and high-level radioactive waste shall be as des-  
7 ignated in the map dated July 21, 1997 (referred to  
8 as ‘Heavy-Haul Route’) and on file with the Sec-  
9 retary.

10 “(2) TRUCK TRANSPORTATION.—The Secretary,  
11 in consultation with the State of Nevada and appro-  
12 priate counties and local jurisdictions, shall establish  
13 reasonable terms and conditions pursuant to which  
14 the Secretary may utilize heavy-haul truck transport  
15 to move spent nuclear fuel and high-level radioactive  
16 waste from Caliente, Nevada, to the interim storage  
17 facility site.

18 “(d) IMPROVEMENTS AND MAINTENANCE OF TRUCK  
19 TRANSPORT ROUTE.—Notwithstanding any other law—

20 “(1) the Secretary shall be responsible for—

21 “(A) making improvements to existing  
22 roadways in Nevada, and

23 “(B) any costs related to improving or up-  
24 grading Federal, State, and local roads within  
25 the heavy-haul transportation route utilized,

1           and performing any maintenance activities on  
2           such roads,  
3           as necessary, to facilitate year-round safe transport  
4           of spent nuclear fuel and high-level radioactive  
5           waste; and

6           “(2) any such improvement, upgrading, or  
7           maintenance activity shall be funded solely by appro-  
8           priations made pursuant to sections 301 and 303 of  
9           this Act.

10          “(e) TRANSFER OF TITLE.—Acceptance by the Sec-  
11       retary of any spent nuclear fuel or high-level radioactive  
12       waste shall constitute a transfer of title to the Secretary.

13       **“SEC. 102. TRANSPORTATION PLANNING.**

14          “(a) TRANSPORTATION READINESS.—

15               “(1) IN GENERAL.—As soon as is practicable  
16       following the date of enactment of this Act, the Sec-  
17       retary shall analyze each specific reactor facility and  
18       develop a logistical plan to assure the Secretary’s  
19       ability to transport spent nuclear fuel and high-level  
20       radioactive waste, using routes that minimize, to the  
21       maximum practicable extent and consistent with  
22       Federal requirements governing transportation of  
23       hazardous materials, transportation of spent nuclear  
24       fuel and high-level radioactive waste through popu-  
25       lated areas.



1           “(2) INSTITUTIONAL PLANS.—In conjunction  
2           with the development of the logistical plan in accord-  
3           ance with paragraph (1), the Secretary shall update  
4           and modify, as necessary, the Secretary’s transpor-  
5           tation institutional plans to ensure that institutional  
6           issues are addressed and resolved on a schedule to  
7           support the commencement of transportation of  
8           spent nuclear fuel and high-level radioactive waste to  
9           the interim storage facility by June 30, 2003.  
10          Among other things, such planning shall provide a  
11          schedule and process for addressing and imple-  
12          menting, as necessary, transportation routing plans,  
13          transportation contracting plans, transportation  
14          training in accordance with section 103, and trans-  
15          portation tracking programs.

16          “(b) RAIL ROUTES.—Not later than one year after  
17          the date of enactment of this Act, the Secretary of Trans-  
18          portation shall establish procedures for the selection of  
19          preferred rail routes for the transportation of spent nu-  
20          clear fuel and high-level radioactive waste to the interim  
21          storage facility site and the Yucca Mountain site. Such  
22          procedures shall be established in consultation with the  
23          designated emergency services planning management offi-  
24          cial for any State or Indian tribe affected by the rail  
25          routes selected.

1   **“SEC. 103. TRANSPORTATION REQUIREMENTS.**

2           “(a) PACKAGE CERTIFICATION.—No spent nuclear  
3 fuel or high-level radioactive waste may be transported by  
4 or for the Secretary under this Act except in packages that  
5 have been certified for such purposes by the Commission.

6           “(b) STATE NOTIFICATION.—The Secretary shall  
7 abide by regulations of the Commission regarding advance  
8 notification of State and local governments before trans-  
9 portation of spent nuclear fuel or high-level radioactive  
10 waste under this Act.

11          “(c) TECHNICAL ASSISTANCE.—

12               “(1) IN GENERAL.—The Secretary shall provide  
13 technical assistance and funds to States, affected  
14 units of local government, and Indian tribes through  
15 whose jurisdiction the Secretary plans to transport  
16 substantial amounts of spent nuclear fuel or high-  
17 level radioactive waste for training for public safety  
18 officials of appropriate units of local government.  
19 Training shall cover procedures required for safe  
20 routine transportation of these materials, as well as  
21 procedures for dealing with emergency response situ-  
22 ations. The Secretary’s duty to provide technical and  
23 financial assistance under this subsection shall be  
24 limited to amounts specified in annual appropria-  
25 tions.

26               “(2) EMPLOYEE ORGANIZATIONS.—

1           “(A) IN GENERAL.—The Secretary shall  
2           provide technical assistance and funds for train-  
3           ing directly to nonprofit employee organiza-  
4           tions, voluntary emergency response organiza-  
5           tions, and joint labor-management organiza-  
6           tions that demonstrate experience in imple-  
7           menting and operating worker health and safety  
8           training and education programs and dem-  
9           onstrate the ability to reach and involve in  
10          training programs target populations of workers  
11          who are or will be directly engaged in the trans-  
12          portation of spent nuclear fuel and high-level  
13          radioactive waste or emergency response or  
14          post-emergency response with respect to such  
15          transportation.

16          “(B) TRAINING.—Training under this  
17          paragraph—

18                 “(i) shall cover procedures required  
19                 for safe routine transportation of materials  
20                 and procedures for dealing with emergency  
21                 response situations;

22                 “(ii) shall be consistent with any  
23                 training standards established by the Sec-  
24                 retary of Transportation; and

25                 “(iii) shall include—

1                   “(I) a training program applica-  
2                   ble to persons responsible for respond-  
3                   ing to emergency situations occurring  
4                   during the removal and transportation  
5                   of spent nuclear fuel and high-level  
6                   radioactive waste;

7                   “(II) instruction of public safety  
8                   officers in procedures for the com-  
9                   mand and control of the response to  
10                  any incident involving such fuel or  
11                  waste; and

12                  “(III) instruction of radiological  
13                  protection and emergency medical per-  
14                  sonnel in procedures for responding to  
15                  an incident involving spent nuclear  
16                  fuel or high-level radioactive waste  
17                  being transported.

18                  “(3) GRANTS.—To implement this subsection,  
19                  grants shall be made from the Nuclear Waste Fund.

20                  “(4) MINIMIZING DUPLICATION OF EFFORT  
21                  AND EXPENSES.—The Secretaries of Transportation,  
22                  Labor, and Energy, Directors of the Federal Emer-  
23                  gency Management Agency and National Institute of  
24                  Environmental Health Sciences, the Nuclear Regu-  
25                  latory Commission, and Administrator of the Envi-

1       ronmental Protection Agency shall review periodi-  
2       cally, with the head of each department, agency, or  
3       instrumentality of the Government, all emergency re-  
4       sponse and preparedness training programs of that  
5       department, agency, or instrumentality to minimize  
6       duplication of effort and expense of the department,  
7       agency, or instrumentality in carrying out the pro-  
8       grams and shall take necessary action to minimize  
9       duplication.

10       “(d) USE OF PRIVATE CARRIERS.—The Secretary, in  
11       providing for the transportation of spent nuclear fuel and  
12       high-level radioactive waste under this Act, shall by con-  
13       tract use private industry to the fullest extent possible in  
14       each aspect of such transportation. The Secretary shall  
15       use direct Federal services for such transportation only  
16       upon a determination by the Secretary of Transportation,  
17       in consultation with the Secretary, that private industry  
18       is unable or unwilling to provide such transportation serv-  
19       ices at a reasonable cost.

20       “(e) EMPLOYEE PROTECTION.—Any person engaged  
21       in the interstate commerce of spent nuclear fuel or high-  
22       level radioactive waste under contract to the Secretary  
23       pursuant to this Act shall be subject to and comply fully  
24       with the employee protection provisions of section 20109  
25       of title 49, United States Code (in the case of employees

1 of railroad carriers), and section 31105 of title 49, United  
2 States Code (in the case of employees operating commer-  
3 cial motor vehicles), or the Commission (in the case of all  
4 other employees).

5 “(f) TRAINING STANDARD.—

6 “(1) REGULATION.—No later than 12 months  
7 after the date of enactment of this Act, the Sec-  
8 retary of Transportation, pursuant to authority  
9 under other provisions of law, in consultation with  
10 the Secretary of Labor and the Commission, shall  
11 promulgate a regulation establishing training stand-  
12 ards applicable to workers directly involved in the re-  
13 moval and transportation of spent nuclear fuel and  
14 high-level radioactive waste. The regulation shall  
15 specify minimum training standards applicable to  
16 workers, including managerial personnel. The regu-  
17 lation shall require that the employer possess evi-  
18 dence of satisfaction of the applicable training  
19 standard before any individual may be employed in  
20 the removal and transportation of spent nuclear fuel  
21 and high-level radioactive waste.

22 “(2) SECRETARY OF TRANSPORTATION.—If the  
23 Secretary of Transportation determines, in promul-  
24 gating the regulation required by paragraph (1),  
25 that existing Federal regulations establish adequate

1 training standards for workers, then the Secretary  
2 of Transportation can refrain from promulgating ad-  
3 ditional regulations with respect to worker training  
4 in such activities. The Secretary of Transportation  
5 and the Commission shall use their Memorandum of  
6 Understanding to ensure coordination of worker  
7 training standards and to avoid duplicative regula-  
8 tion.

9 “(3) TRAINING STANDARDS CONTENT.—If  
10 training standards are required to be promulgated  
11 under paragraph (1), such standards shall, among  
12 other things deemed necessary and appropriate by  
13 the Secretary of Transportation, provide for—

14 “(A) a specified minimum number of hours  
15 of initial off-site instruction and actual field ex-  
16 perience under the direct supervision of a  
17 trained, experienced supervisor;

18 “(B) a requirement that on-site managerial  
19 personnel receive the same training as workers,  
20 and a minimum number of additional hours of  
21 specialized training pertinent to their manage-  
22 rial responsibilities; and

23 “(C) a training program applicable to per-  
24 sons responsible for responding to and cleaning  
25 up emergency situations occurring during the

1 removal and transportation of spent nuclear  
2 fuel and high-level radioactive waste.

3 The Secretary of Transportation may specify an ap-  
4 propriate combination of knowledge, skills, and prior  
5 training to fulfill the minimum number of hours re-  
6 quirements of subparagraphs (A) and (B).

7 “(4) EMERGENCY RESPONDER TRAINING  
8 STANDARDS.—The training standards for persons  
9 responsible for responding to emergency situations  
10 occurring during the removal and transportation of  
11 spent nuclear fuel and high-level radioactive waste  
12 shall, in accordance with existing regulations, ensure  
13 their ability to protect nearby persons, property, or  
14 the environment from the effects of accidents involv-  
15 ing spent nuclear fuel and high-level radioactive  
16 waste.

17 “(5) AUTHORIZATION.—There are authorized to  
18 be appropriated to the Secretary of Transportation,  
19 from general revenues, such sums as may be nec-  
20 essary to perform his duties under this subsection.

21 **“SEC. 104. INTERIM STORAGE.**

22 “(a) AUTHORIZATION.—The Secretary shall design,  
23 construct, and operate a facility for the interim storage  
24 of spent nuclear fuel and high-level radioactive waste at  
25 the interim storage facility site. The interim storage facil-



1 ity shall be subject to licensing pursuant to the Atomic  
2 Energy Act of 1954 (42 U.S.C. 2011 et seq.) in accord-  
3 ance with the Commission's regulations governing the li-  
4 censing of independent spent fuel storage installations and  
5 shall commence operation in phases by June 30, 2003.  
6 The interim storage facility shall store spent nuclear fuel  
7 and high-level radioactive waste until the Secretary is able  
8 to dispose of such fuel and waste in the repository.

9       “(b) DESIGN.—The design of the interim storage fa-  
10 cility shall provide for the use of storage technologies li-  
11 censed or certified by the Commission for use at the in-  
12 terim storage facility as necessary to ensure compatibility  
13 between the interim storage facility and contract holders’  
14 spent nuclear fuel and facilities, and to facilitate the Sec-  
15 retary’s ability to meet the Secretary’s obligations under  
16 this Act.

17       “(c) LICENSING.—

18               “(1) PHASES.—The interim storage facility  
19 shall be licensed by the Commission in order to com-  
20 mence operations in phases by June 30, 2003.

21               “(2) FIRST PHASE.—No later than 12 months  
22 after the date of enactment of this Act, the Sec-  
23 retary shall submit to the Commission an application  
24 for a license for the first phase of the interim stor-  
25 age facility. The license for the first phase of the in-

1        interim storage facility shall have a term of 20 years.  
2        The first phase of the interim storage facility shall  
3        have a capacity of not more than 10,000 MTU. The  
4        Commission shall issue a final decision granting or  
5        denying the application for the first phase license no  
6        later than 36 months from the date of the submittal  
7        of the application for such license.

8            “(3) SECOND PHASE.—The Secretary shall sub-  
9        mit to the Commission an application for a license  
10       for the second phase of the interim storage facility.  
11       The license for the second phase of the interim stor-  
12       age facility shall have an additional storage capacity  
13       of 30,000 MTU. The license for the second phase of  
14       the interim storage facility shall have an initial term  
15       of up to 100 years and shall be renewable for addi-  
16       tional terms upon application of the Secretary.

17       “(d) ADDITIONAL AUTHORITY.—

18            “(1) CONSTRUCTION.—For the purpose of com-  
19        plying with subsection (a), the Secretary may com-  
20        mence site preparation for the interim storage facil-  
21        ity as soon as practicable after the date of enact-  
22        ment of this Act and shall commence construction of  
23        the first phase of the interim storage facility subse-  
24        quent to submittal of the license application except  
25        that the Commission shall issue an order suspending

1       such construction at any time if the Commission de-  
2       termines that such construction poses an unreason-  
3       able risk to public health and safety and the environ-  
4       ment. The Commission shall terminate all or part of  
5       such order upon a determination that the Secretary  
6       has taken appropriate action to eliminate such risk.

7               “(2) FACILITY USE.—Notwithstanding any oth-  
8       erwise applicable licensing requirement, the Sec-  
9       retary may utilize any facility, owned by the Federal  
10      Government on the date of enactment of this Act  
11      and within the boundaries of Area 25 of the Nevada  
12      Test Site, to protect the public health and safety or  
13      the environment before commencement of operations  
14      of the second phase of the interim storage facility.

15      “(e) NATIONAL ENVIRONMENTAL POLICY ACT OF  
16      1969.—

17              “(1) PRELIMINARY DECISIONMAKING ACTIVI-  
18      TIES OF THE SECRETARY.—The designation by the  
19      Secretary of the interim storage facility site, the  
20      preparation and submittal by the Secretary of any li-  
21      cense application for the interim storage facility, the  
22      construction and operation by the Secretary of the  
23      interim storage facility, or any other activity of the  
24      Secretary (other than under subsection (i)) under  
25      this section shall be considered preliminary decision-

1 making activities for purposes of the National Envi-  
2 ronmental Policy Act of 1969 (42 U.S.C. 4321 et  
3 seq.). No such activity shall require the preparation  
4 of an environmental impact statement under section  
5 102(2)(C) of the National Environmental Policy Act  
6 of 1969 (42 U.S.C. 4332(2)(C)) or require any envi-  
7 ronmental review under subparagraph (E) or (F) of  
8 such Act.

9 “(2) ENVIRONMENTAL IMPACT STATEMENT.—

10 “(A) FINAL DECISION OF THE COMMIS-  
11 SION.—A final decision of the Commission to  
12 grant or deny a license application for the first  
13 or second phase of the interim storage facility  
14 shall be accompanied by an Environmental Im-  
15 pact Statement prepared under section  
16 102(2)(C) of the National Environmental Policy  
17 Act of 1969 (42 U.S.C. 4332(2)(C)). In pre-  
18 paring such Environmental Impact Statement,  
19 the Commission—

20 “(i) shall assume that 40,000 MTU  
21 will be stored at the interim storage facil-  
22 ity; and

23 “(ii) shall analyze the impacts of the  
24 transportation of spent nuclear fuel and

1 high-level radioactive waste to the interim  
2 storage facility in a generic manner.

3 “(B) CONSIDERATIONS.—Such Environ-  
4 mental Impact Statement shall not consider—

5 “(i) the need for the interim storage  
6 facility, including any individual compo-  
7 nent thereof;

8 “(ii) the time of the initial availability  
9 of the interim storage facility;

10 “(iii) any alternatives to the storage  
11 of spent nuclear fuel and high-level radio-  
12 active waste at the interim storage facility;

13 “(iv) any alternatives to the site of  
14 the interim storage facility as designated  
15 by the Secretary;

16 “(v) any alternatives to the design cri-  
17 teria for the interim storage facility or any  
18 individual component thereof, as specified  
19 by the Secretary in the license application;  
20 or

21 “(vi) the environmental impacts of the  
22 storage of spent nuclear fuel and high-level  
23 radioactive waste at the interim storage fa-  
24 cility beyond the initial term of the license

1                   or the term of the renewal period for which  
2                   a license renewal application is made.

3                   “(3) ON-SITE STORAGE.—Activities of the Sec-  
4           retary under subsection (i) are not major Federal  
5           actions subject to the National Environmental Policy  
6           Act of 1969 (42 U.S.C. 4321 et seq.).

7                   “(f) JUDICIAL REVIEW.—Judicial review of the Com-  
8           mission’s environmental impact statement under the Na-  
9           tional Environmental Policy Act of 1969 (42 U.S.C. 4321  
10          et seq.) shall be consolidated with judicial review of the  
11          Commission’s licensing decision. No court shall have juris-  
12          diction to enjoin the construction or operation of the in-  
13          terim storage facility before its final decision on review  
14          of the Commission’s licensing action.

15                  “(g) WASTE CONFIDENCE.—The Secretary’s obliga-  
16          tion to construct and operate the interim storage facility  
17          in accordance with this section and the Secretary’s obliga-  
18          tion to develop an integrated management system in ac-  
19          cordance with the provisions of this Act, shall provide suf-  
20          ficient and independent grounds for any further findings  
21          by the Commission of reasonable assurance that spent nu-  
22          clear fuel and high-level radioactive waste will be disposed  
23          of safely and on a timely basis for purposes of the Com-  
24          mission’s decision to grant or amend any license to operate

1 any civilian nuclear power reactor under the Atomic En-  
2 ergy Act of 1954 (42 U.S.C. 2011 et seq.).

3 “(h) SAVINGS CLAUSE.—Nothing in this Act shall af-  
4 fect the Commission’s procedures for the licensing of any  
5 technology for the dry storage of spent nuclear fuel at the  
6 site of any civilian nuclear power reactor as adopted by  
7 the Commission under section 218 of the Nuclear Waste  
8 Policy Act of 1982, as in effect before the date of enact-  
9 ment of this Act. The establishment of such procedures  
10 shall not preclude the licensing, under any applicable pro-  
11 cedures or rules of the Commission in effect before such  
12 establishment, of any technology for the storage of spent  
13 nuclear fuel at the site of any civilian nuclear power reac-  
14 tor.

15 “(i) STORAGE ON-SITE BY THE GOVERNMENT.—In  
16 order to provide relief from the financial and other bur-  
17 dens imposed on owners and operators of civilian nuclear  
18 power reactors by the Secretary’s failure to accept spent  
19 nuclear fuel in accordance with section 302(a)(5)(B) of  
20 the Nuclear Waste Policy Act of 1982, the Secretary may  
21 take title to spent nuclear fuel generated by civilian nu-  
22 clear power reactors for storage on the site of such reac-  
23 tors.

24 **“SEC. 105. PERMANENT DISPOSAL.**

25 “(a) SITE CHARACTERIZATION.—

1           “(1) GUIDELINES.—The guidelines promul-  
2           gated by the Secretary and published at 10 CFR  
3           part 960 are annulled and revoked and the Sec-  
4           retary shall make no assumptions or conclusions  
5           about the licensability of the Yucca Mountain site as  
6           a repository by reference to such guidelines.

7           “(2) SITE CHARACTERIZATION ACTIVITIES.—  
8           The Secretary shall carry out appropriate site char-  
9           acterization activities at the Yucca Mountain site in  
10          accordance with the Secretary’s program approach.

11          “(3) DATE.—By December 31, 2002, the Sec-  
12          retary shall apply to the Commission for authoriza-  
13          tion to construct a repository that will commence op-  
14          erations by January 17, 2010. If, at any time before  
15          the filing of such application, the Secretary deter-  
16          mines that the Yucca Mountain site cannot satisfy  
17          the Commission’s regulations applicable to the li-  
18          censing of a geologic repository, the Secretary shall  
19          terminate site characterization activities at the site,  
20          notify Congress and the State of Nevada of the Sec-  
21          retary’s determination and the reasons therefor, and  
22          recommend to Congress not later than 6 months  
23          after such determination further actions, including  
24          the enactment of legislation, that may be needed to



1       manage the Nation's spent nuclear fuel and high-  
2       level radioactive waste.

3               “(4) MAXIMIZING CAPACITY.—In developing an  
4       application for authorization to construct the reposi-  
5       tory, the Secretary shall seek to maximize the capac-  
6       ity of the repository.

7               “(b) LICENSING.—Within one year of the date of en-  
8       actment of this Act, the Commission shall amend its regu-  
9       lations governing the disposal of spent nuclear fuel and  
10      high-level radioactive waste in geologic repositories to the  
11      extent necessary to comply with this Act. Subject to sub-  
12      section (c), such regulations shall provide for the licensing  
13      of the repository according to the following procedures:

14              “(1) CONSTRUCTION AUTHORIZATION.—The  
15      Commission shall grant the Secretary a construction  
16      authorization for the repository upon determining  
17      that there is reasonable assurance that spent nuclear  
18      fuel and high-level radioactive waste can be disposed  
19      of in the repository—

20              “(A) in conformity with the Secretary's ap-  
21      plication, the provisions of this Act, and the  
22      regulations of the Commission;

23              “(B) with adequate protection of the  
24      health and safety of the public; and

1                   “(C) consistent with the common defense  
2                   and security.

3                   “(2) LICENSE.—Following substantial comple-  
4                   tion of construction and the filing of any additional  
5                   information needed to complete the license applica-  
6                   tion, the Commission shall issue a license to dispose  
7                   of spent nuclear fuel and high-level radioactive waste  
8                   in the repository if the Commission determines that  
9                   the repository has been constructed and will  
10                  operate—

11                  “(A) in conformity with the Secretary’s ap-  
12                  plication, the provisions of this Act, and the  
13                  regulations of the Commission;

14                  “(B) with adequate protection of the  
15                  health and safety of the public; and

16                  “(C) consistent with the common defense  
17                  and security.

18                  “(3) CLOSURE.—After emplacing spent nuclear  
19                  fuel and high-level radioactive waste in the reposi-  
20                  tory and collecting sufficient confirmatory data on  
21                  repository performance to reasonably confirm the  
22                  basis for repository closure consistent with the Com-  
23                  mission’s regulations applicable to the licensing of a  
24                  repository, as modified in accordance with this Act,  
25                  the Secretary shall apply to the Commission to

1       amend the license to permit permanent closure of  
2       the repository. The Commission shall grant such li-  
3       cense amendment upon finding that there is reason-  
4       able assurance that the repository can be perma-  
5       nently closed—

6               “(A) in conformity with the Secretary’s ap-  
7       plication to amend the license, the provisions of  
8       this Act, and the regulations of the Commis-  
9       sion;

10              “(B) with adequate protection of the  
11       health and safety of the public; and

12              “(C) consistent with the common defense  
13       and security.

14              “(4) POST-CLOSURE.—The Secretary shall take  
15       those actions necessary and appropriate at the  
16       Yucca Mountain site to prevent any activity at the  
17       site subsequent to repository closure that poses an  
18       unreasonable risk of—

19              “(A) breaching the repository’s engineered  
20       or geologic barriers: or

21              “(B) increasing the exposure of individual  
22       members of the public to radiation beyond the  
23       release standard established in subsection  
24       (d)(1).

1       “(c) MODIFICATION OF REPOSITORY LICENSING  
2 PROCEDURE.—The Commission’s regulations shall pro-  
3 vide for the modification of the repository licensing proce-  
4 dure, as appropriate, in the event that the Secretary seeks  
5 a license to permit the emplacement in the repository, on  
6 a retrievable basis, of only that quantity of spent nuclear  
7 fuel or high-level radioactive waste that is necessary to  
8 provide the Secretary with sufficient confirmatory data on  
9 repository performance to reasonably confirm the basis for  
10 repository closure consistent with applicable regulations.

11       “(d) LICENSING STANDARDS.—Notwithstanding any  
12 other provision of law, the Administrator of the Environ-  
13 mental Protection Agency shall not promulgate, by rule  
14 or otherwise, standards for protection of the public from  
15 releases of radioactive materials or radioactivity from the  
16 repository and any such standards existing on the date  
17 of enactment of this Act shall not be incorporated in the  
18 Commission’s licensing regulations. The Commission’s re-  
19 pository licensing determinations for the protection of the  
20 public shall be based solely on a finding whether the repos-  
21 itory can be operated in conformance with the overall sys-  
22 tem performance standard established in paragraph  
23 (1)(A) and applied in accordance with the provisions of  
24 paragraph (1)(B). The Commission shall amend its regu-

1 lations in accordance with subsection (b) to incorporate  
2 each of the following licensing standards:

3 “(1) RELEASE STANDARD.—

4 “(A) ESTABLISHMENT OF OVERALL SYS-  
5 TEM PERFORMANCE STANDARD.—The standard  
6 for protection of the public from release of ra-  
7 dioactive material or radioactivity from the re-  
8 pository shall prohibit releases that would ex-  
9 pose an average member of the general popu-  
10 lation in the vicinity of the Yucca Mountain site  
11 to an annual dose in excess of 100 millirems  
12 unless the Commission, in consultation with the  
13 Administrator of the Environmental Protection  
14 Agency, determines by rule that such standard  
15 will not provide for adequate protection of the  
16 health and safety of the public and establishes  
17 by rule another standard which will provide for  
18 adequate protection of the health and safety of  
19 the public. Such standard shall constitute an  
20 overall system performance standard.

21 “(B) APPLICATION OF OVERALL SYSTEM  
22 PERFORMANCE STANDARD.—The Commission  
23 shall issue the license if it finds reasonable as-  
24 surance that—

1                   “(i) for the first 1,000 years following  
2                   the commencement of repository oper-  
3                   ations, the overall system performance  
4                   standard will be met based on a deter-  
5                   ministic or probabilistic evaluation of the  
6                   overall performance of the disposal system;  
7                   and

8                   “(ii) for the period commencing after  
9                   the first 1,000 years of operation of the re-  
10                  pository and terminating at 10,000 years  
11                  after the commencement of operation of  
12                  the repository, there is likely to be compli-  
13                  ance with the overall system performance  
14                  standard based on regulatory insight  
15                  gained through the use of a probabilistic  
16                  integrated performance model that uses  
17                  best estimate assumptions, data, and  
18                  methods.

19                  “(2) HUMAN INTRUSION.—The Commission  
20                  shall assume that, following repository closure, the  
21                  inclusion of engineered barriers and the Secretary’s  
22                  post-closure actions at the Yucca Mountain site, in  
23                  accordance with subsection (b)(3), shall be sufficient  
24                  to—

1           “(A) prevent any human activity at the  
2           site that poses an unreasonable risk of breach-  
3           ing the repository’s engineered or geologic bar-  
4           riers; and

5           “(B) prevent any increase in the exposure  
6           of individual members of the public to radiation  
7           beyond allowable limits as specified in para-  
8           graph (1).

9           “(e) NATIONAL ENVIRONMENTAL POLICY ACT.—

10           “(1) COMMISSION REGULATIONS.—The promul-  
11           gation of standards or criteria by the Commission in  
12           accordance with the provisions of this section shall  
13           not require the preparation of an environmental im-  
14           pact statement under section 102(2)(C) of the Na-  
15           tional Environmental Policy Act of 1969 (42 U.S.C.  
16           4332(2)(C)) or require any environmental review  
17           under subparagraph (E) or (F) of section 102(2) of  
18           such Act.

19           “(2) SUBMISSION OF STATEMENT.—Construc-  
20           tion and operation of the repository shall be consid-  
21           ered a major Federal action significantly affecting  
22           the quality of the human environment for purposes  
23           of the National Environmental Policy Act of 1969  
24           (42 U.S.C. 4321 et seq.). The Secretary shall submit  
25           an environmental impact statement on the construc-

1       tion and operation of the repository to the Commis-  
2       sion with the application for construction authoriza-  
3       tion.

4               “(3) CONSIDERATIONS.—For purposes of com-  
5       plying with the requirements of the National Envi-  
6       ronmental Policy Act of 1969 and this section, the  
7       Secretary shall not consider in the environmental  
8       impact statement the need for the repository, the  
9       time of the initial availability of the repository, alter-  
10      nate sites for the Yucca Mountain site, or any alter-  
11      natives to the disposal of spent nuclear fuel and  
12      high-level radioactive waste in a repository.

13              “(4) ADOPTION BY COMMISSION.—The Sec-  
14      retary’s environmental impact statement and any  
15      supplements thereto shall, to the extent practicable,  
16      be adopted by the Commission in connection with  
17      the issuance by the Commission of a construction  
18      authorization under subsection (b)(1), a license  
19      under subsection (b)(2), or a license amendment  
20      under subsection (b)(3). To the extent such state-  
21      ment or supplement is adopted by the Commission,  
22      such adoption shall be deemed to also satisfy the re-  
23      sponsibilities of the Commission under the National  
24      Environmental Policy Act of 1969, and no further  
25      consideration shall be required, except that nothing



1 in this subsection shall affect any independent re-  
2 sponsibilities of the Commission to protect the public  
3 health and safety under the Atomic Energy Act of  
4 1954 (42 U.S.C. 2011 et seq.). In any such state-  
5 ment prepared with respect to the repository, the  
6 Commission shall not consider the need for a reposi-  
7 tory, the time of initial availability of the repository,  
8 alternate sites for the Yucca Mountain site, or any  
9 alternatives to the disposal of spent nuclear fuel and  
10 high-level radioactive waste in a repository.

11 “(f) JUDICIAL REVIEW.—No court shall have juris-  
12 diction to enjoin issuance of the Commission repository  
13 licensing regulations before its final decision on review of  
14 such regulations.

15 **“SEC. 106. LAND WITHDRAWAL.**

16 “(a) WITHDRAWAL AND RESERVATION.—

17 “(1) WITHDRAWAL.—Subject to valid existing  
18 rights, the interim storage facility site and the  
19 Yucca Mountain site, as described in subsection (b),  
20 are withdrawn from all forms of entry, appropria-  
21 tion, and disposal under the public land laws, includ-  
22 ing the mineral leasing laws, the geothermal leasing  
23 laws, the material sale laws, and the mining laws.

24 “(2) JURISDICTION.—Jurisdiction over land  
25 within the interim storage facility site and the Yucca

1 Mountain site managed by the Secretary of the Inte-  
2 rior or any other Federal officer is transferred to the  
3 Secretary.

4 “(3) RESERVATION.—The interim storage facil-  
5 ity site and the Yucca Mountain site are reserved for  
6 the use of the Secretary for the construction and op-  
7 eration, respectively, of the interim storage facility  
8 and the repository and activities associated with the  
9 purposes of this title.

10 “(b) LAND DESCRIPTION.—

11 “(1) BOUNDARIES FOR INTERIM STORAGE FA-  
12 CILITY SITE.—The Secretary shall establish the  
13 boundaries and have maps drawn for the interim  
14 storage facility site.

15 “(2) BOUNDARIES FOR THE YUCCA MOUNTAIN  
16 SITE.—The boundaries depicted on the map entitled  
17 ‘Yucca Mountain Site Withdrawal Map’, dated July  
18 28, 1995, and on file with the Secretary, are estab-  
19 lished as the boundaries of the Yucca Mountain site.

20 “(3) NOTICE AND MAPS FOR THE INTERIM  
21 STORAGE FACILITY SITE.—Within 6 months of the  
22 date of enactment of this Act, the Secretary shall—

23 “(A) publish in the Federal Register a no-  
24 tice containing a legal description of the interim  
25 storage facility site; and

1           “(B) file copies of the legal description (in-  
2           cluding maps) of the interim storage facility  
3           site with the Congress, the Secretary of the In-  
4           terior, the Governor of Nevada, and the Archi-  
5           vist of the United States.

6           “(4) NOTICE AND MAPS FOR THE YUCCA  
7           MOUNTAIN SITE.—Concurrent with the Secretary’s  
8           application to the Commission for authority to con-  
9           struct the repository, the Secretary shall—

10           “(A) publish in the Federal Register a no-  
11           tice containing a legal description of the Yucca  
12           Mountain site; and

13           “(B) file copies of the maps described in  
14           paragraph (2), and the legal description of the  
15           Yucca Mountain site with the Congress, the  
16           Secretary of the Interior, the Governor of Ne-  
17           vada, and the Archivist of the United States.

18           “(5) CONSTRUCTION.—The legal descriptions of  
19           the interim storage facility site and the Yucca  
20           Mountain site referred to in this subsection shall  
21           have the same force and effect as if they were in-  
22           cluded in this Act. The Secretary may correct cler-  
23           ical and typographical errors in the maps and legal  
24           descriptions and make minor adjustments in the  
25           boundaries of the sites.

1   **“SEC. 107. APPLICABILITY.**

2       “Nothing in this Act shall affect the application of  
3 chapter 51 of title 49, United States Code; part A of sub-  
4 title V of title 49, United States Code; part B of subtitle  
5 VI of title 49, United States Code; and title 23, United  
6 States Code.

7   **“TITLE II—LOCAL RELATIONS**

8   **“SEC. 201. ON-SITE REPRESENTATIVE.**

9       “The Secretary shall offer to Nye County, Nevada,  
10 an opportunity to designate a representative to conduct  
11 on-site oversight activities at the Yucca Mountain site.  
12 Reasonable expenses of such representatives shall be paid  
13 by the Secretary.

14   **“SEC. 202. BENEFITS AGREEMENTS.**

15       “(a) IN GENERAL.—

16           “(1) SEPARATE AGREEMENTS.—The Secretary  
17 shall offer to enter into separate agreements with  
18 Nye County, Nevada, and Lincoln County, Nevada,  
19 concerning the integrated management system.

20           “(2) AGREEMENT CONTENT.—Any agreement  
21 shall contain such terms and conditions, including  
22 such financial and institutional arrangements, as the  
23 Secretary and agreement entity determine to be rea-  
24 sonable and appropriate and shall contain such pro-  
25 visions as are necessary to preserve any right to par-

1        ticipation or compensation of Nye County, Nevada,  
 2        and Lincoln County, Nevada.

3        “(b) AMENDMENT.—An agreement entered into  
 4 under subsection (a) may be amended only with the mu-  
 5 tual consent of the parties to the amendment and termi-  
 6 nated only in accordance with subsection (c).

7        “(c) TERMINATION.—The Secretary shall terminate  
 8 an agreement under subsection (a) if any element of the  
 9 integrated management system may not be completed.

10       “(d) LIMITATION.—Only 1 agreement each for Nye  
 11 County, Nevada, and Lincoln County, Nevada, may be in  
 12 effect at any one time.

13       “(e) JUDICIAL REVIEW.—Decisions of the Secretary  
 14 under this section are not subject to judicial review.

15       **“SEC. 203. CONTENT OF AGREEMENTS.**

16       “(a) IN GENERAL.—

17                “(1) SCHEDULE.—The Secretary, subject to ap-  
 18 propriations, shall make payments to the party of a  
 19 benefits agreement under section 202(a) in accord-  
 20 ance with the following schedule:

“BENEFITS SCHEDULE

[Amounts in millions]

Event	Amount
(A) Annual payments before first spent fuel receipt .....	\$2.5
(B) Payment upon first spent fuel receipt .....	\$5
(C) Annual payments after first spent fuel receipt until closure of facility .....	\$5

1           “(2) DEFINITION.—For purposes of this sec-  
2           tion, the term ‘first spent fuel receipt’ means the ac-  
3           ceptance of spent nuclear fuel or high-level radio-  
4           active waste for storage at the interim storage facil-  
5           ity or disposal at the repository but does not include  
6           acceptance for purposes of testing or operational  
7           demonstration.

8           “(3) ANNUAL PAYMENTS.—Annual payments  
9           before first spent fuel receipt under line (A) of the  
10          benefits schedule shall be made on the date of execu-  
11          tion of the benefits agreement and thereafter on the  
12          anniversary date of such execution. Annual pay-  
13          ments after the first spent fuel receipt until closure  
14          of the facility under line (C) of the benefits schedule  
15          shall be made on the anniversary date of such first  
16          spent fuel receipt.

17          “(4) REDUCTION.—If the first spent fuel pay-  
18          ment under line (B) is made within 6 months after  
19          the last annual payment before the first spent fuel  
20          receipt under line (A) of the benefits schedule, such  
21          first spent fuel payment under line (B) of the bene-  
22          fits schedule shall be reduced by an amount equal to  
23           $\frac{1}{12}$  of such annual payment under line (A) of the  
24          benefits schedule for each full month less than 6

1       that has not elapsed since the last annual payment  
2       under line (A) of the benefits schedule.

3       “(b) CONTENTS.—A benefits agreement under sec-  
4       tion 202 shall provide that—

5               “(1) the parties to the agreement shall share  
6       with one another information relevant to the licens-  
7       ing process for the interim storage facility or reposi-  
8       tory, as it becomes available; and

9               “(2) the affected unit of local government that  
10      is party to such agreement may comment on the de-  
11      velopment of the integrated management system and  
12      on documents required under law or regulations gov-  
13      erning the effects of the system on the public health  
14      and safety.

15      “(c) CONSTRUCTION.—The signature of the Sec-  
16      retary on a valid benefits agreement under section 202  
17      shall constitute a commitment by the United States to  
18      make payments in accordance with such agreement.

19      **“SEC. 204. ACCEPTANCE OF BENEFITS.**

20      “(a) CONSENT.—The acceptance or use of any of the  
21      benefits provided under this title by any affected unit of  
22      local government shall not be deemed to be an expression  
23      of consent, express or implied, either under the Constitu-  
24      tion of the State of Nevada or any law thereof, to the

1 siting of the interim storage facility or repository in the  
2 State of Nevada.

3 “(b) ARGUMENTS.—Neither the United States nor  
4 any other entity may assert any argument based on legal  
5 or equitable estoppel, acquiescence, waiver, or consensual  
6 involvement, in response to any decision by the State of  
7 Nevada to oppose the siting in the State of Nevada of the  
8 interim storage facility or repository premised upon or re-  
9 lated to the acceptance or use of benefits under this title.

10 “(c) LIABILITY.—No liability of any nature may be  
11 asserted against the State of Nevada, its Governor, any  
12 official thereof, or any official of any governmental unit  
13 thereof, premised solely upon the acceptance or use of ben-  
14 efits under this title.

15 **“SEC. 205. RESTRICTION ON USE OF FUNDS.**

16 “None of the funding provided under section 203  
17 may be used—

18 “(1) directly or indirectly to influence legislative  
19 action on any matter pending before Congress or a  
20 State legislature or for any lobbying activity as pro-  
21 vided in section 1913 of title 18, United States  
22 Code;

23 “(2) for litigation purposes; or



1           “(3) to support multistate efforts or other coal-  
2           tion-building activities inconsistent with the purposes  
3           of this Act.

4   **“SEC. 206. INITIAL LAND CONVEYANCES.**

5           “(a) CONVEYANCE OF PUBLIC LANDS.—Within 120  
6   days after October 1, 2000, the Secretary of the Interior,  
7   or other agency with jurisdiction over the public lands de-  
8   scribed in subsection (b), shall convey the public lands de-  
9   scribed in subsection (b) to the appropriate county or the  
10   City of Caliente, Nevada, unless the county or city notifies  
11   the Secretary of the Interior or the head of such other  
12   appropriate agency in writing within 60 days of such date  
13   of enactment that it elects not to take title to all or any  
14   part of the property, except that any lands conveyed to  
15   the County of Nye, County of Lincoln, or the City of  
16   Caliente in Nevada under this subsection that are subject  
17   to a Federal grazing permit or a similar federally granted  
18   privilege shall be conveyed between 60 and 120 days of  
19   the earliest time the Federal agency administering or  
20   granting the privilege would be able to legally terminate  
21   such privilege under the statutes and regulations existing  
22   on October 1, 2000, unless the Federal agency, county or  
23   city, and the affected holder of the privilege negotiate an  
24   agreement that allows for an earlier conveyance, but in  
25   no case to occur earlier than October 1, 2000.

1       “(b) SPECIAL CONVEYANCES.—Subject to valid exist-  
2   ing rights and notwithstanding any other law, the Sec-  
3   retary of the Interior or the head of the other appropriate  
4   agency shall convey:

5           “(1) To the County of Nye, Nevada, the fol-  
6       lowing public lands depicted on the maps dated Oc-  
7       tober 11, 1995, and on file with the Secretary:

8           “Map 1: Proposed Pahrump Industrial  
9       Park Site

10          “Map 2: Proposed Lathrop Wells (Gate  
11       510) Industrial Park Site

12          “Map 3: Pahrump Landfill Sites

13          “Map 4: Amargosa Valley Regional Land-  
14       fill Site

15          “Map 5: Amargosa Valley Municipal Land-  
16       fill Site

17          “Map 6: Beatty Landfill/Transfer station  
18       Site

19          “Map 7: Round Mountain Landfill Site

20          “Map 8: Tonopah Landfill Site

21          “Map 9: Gabbs Landfill Site.

22          “(2) To the County of Lincoln, Nevada, the fol-  
23       lowing public lands depicted on the maps dated Oc-  
24       tober 11, 1995, and on file with the Secretary:

1                   “Map 2: Lincoln County, Parcel M, Indus-  
2                   trial Park Site, Jointly with the City of Caliente

3                   “Map 3: Lincoln County, Parcels F and G,  
4                   Mixed Use, Industrial Sites

5                   “Map 4: Lincoln County, Parcels H and I,  
6                   Mixed Use and Airport Expansion Sites

7                   “Map 5: Lincoln County, Parcels J and K,  
8                   Mixed Use, Airport and Landfill Expansion  
9                   Sites

10                  “Map 6: Lincoln County, Parcels E and L,  
11                  Mixed Use, Airport and Industrial Expansion  
12                  Sites.

13                  “(3) To the City of Caliente, Nevada, the fol-  
14                  lowing public lands depicted on the maps dated Oc-  
15                  tober 11, 1995, and on file with the Secretary:

16                  “Map 1: City of Caliente, Parcels A, B, C  
17                  and D, Community Growth, Landfill Expansion  
18                  and Community Recreation Sites

19                  “Map 2: City of Caliente, Parcel M, Indus-  
20                  trial Park Site, jointly with Lincoln County.

21                  “(c) NATIONAL ENVIRONMENTAL POLICY ACT OF  
22                  1969.—The activities of the Secretary and the head of any  
23                  other Federal agency in connection with subsections (a)  
24                  and (b) shall be considered preliminary decision making  
25                  activities. No such activity shall require the preparation

1 of an environmental impact statement under section  
2 102(2)(C) of the National Environmental Policy Act of  
3 1969 (42 U.S.C. 4332(2)(C)) or any environmental review  
4 under subparagraph (E) or (F) of section 102(2) of such  
5 Act.

6 **“SEC. 207. PAYMENTS IN LIEU OF TAXES.**

7 “(a) TAXABLE AMOUNTS.—In addition to financial  
8 assistance provided under this title, the Secretary is au-  
9 thorized to grant to any affected Indian tribe or affected  
10 unit of local government an amount each fiscal year equal  
11 to the amount such affected Indian tribe or affected unit  
12 of local government, respectively, would receive if author-  
13 ized to tax integrated management system activities, as  
14 such affected Indian tribe or affected unit of local govern-  
15 ment taxes the non-Federal real property and industrial  
16 activities occurring within such affected unit of local gov-  
17 ernment.

18 “(b) TERMINATION.—Such grants shall continue  
19 until the Secretary permanently closes the repository.

20 “(c) ASSISTANCE TO INDIAN TRIBES AND UNITS OF  
21 LOCAL GOVERNMENT.—

22 “(1) PERIOD.—Any affected Indian tribe or af-  
23 fected unit of local government may not receive any  
24 grant under subsection (a) after the expiration of  
25 the 1-year period following the date on which the

1 Secretary notifies the affected Indian tribe or af-  
2 fected unit of local government of the termination of  
3 the operation of the integrated management system.

4 “(2) ACTIVITIES.—Any affected Indian tribe or  
5 affected unit of local government may not receive  
6 any further assistance under this section if the inte-  
7 grated management system activities at such site are  
8 terminated by the Secretary or if such activities are  
9 permanently enjoined by any court.

10 **“TITLE III—FUNDING AND**  
11 **ORGANIZATION**

12 **“SEC. 301. NUCLEAR WASTE FUND.**

13 (a) CONTRACTS.—

14 (1) IN GENERAL.—In the performance of the  
15 Secretary’s functions under this Act, the Secretary  
16 is authorized to enter into contracts with any person  
17 who generates or holds title to high-level radioactive  
18 waste or spent nuclear fuel for the acceptance of  
19 title, on-site storage, subsequent transportation, in-  
20 terim storage, and disposal of such waste or spent  
21 fuel. Such contracts shall provide for payment to the  
22 Secretary of fees pursuant to paragraphs (2) and (3)  
23 sufficient to offset expenditures for the integrated  
24 management system.

1           “(2) FEE FOR ELECTRICITY GENERATED.—For  
2       electricity generated by a civilian nuclear power re-  
3       actor and sold after the date of enactment of this  
4       Act, the fee under paragraph (1) shall be equal to  
5       1.0 mill per kilowatt-hour.

6           “(3) ONE-TIME FEE.—The one-time fee col-  
7       lected under contracts executed under section 302(a)  
8       of the Nuclear Policy Waste Act of 1982 after the  
9       date of enactment of this Act on spent nuclear fuel  
10      or high-level radioactive waste derived from spent  
11      nuclear fuel, which fuel was used to generate elec-  
12      tricity in a civilian nuclear power reactor before  
13      April 7, 1983, shall be paid to the Nuclear Waste  
14      Fund. In paying such a fee to the Secretary, the  
15      person delivering such spent nuclear fuel or high-  
16      level radioactive waste derived from spent nuclear  
17      fuel shall have no further financial obligation to the  
18      Federal Government for the long-term storage and  
19      permanent disposal of such spent nuclear fuel or  
20      high-level radioactive waste.

21          “(4) PAYMENT PROCEDURES.—The Secretary  
22      shall annually review the amount of the fees estab-  
23      lished by paragraph (2) to evaluate whether collec-  
24      tion of the fee will provide sufficient revenues to off-  
25      set expenditures for the integrated management sys-

1       tem. In the event the Secretary determines that ei-  
2       ther insufficient or excess revenues are being col-  
3       lected, in order to recover the costs incurred for the  
4       integrated management system, the Secretary shall  
5       propose an adjustment to the fee to ensure full cost  
6       recovery. The Secretary shall immediately transmit  
7       this proposal for such an adjustment to Congress.  
8       The adjusted fee proposed by the Secretary shall be  
9       effective after a period of 90 days of continuous ses-  
10      sion have elapsed following the receipt of such trans-  
11      mittal unless during such 90-day period a joint reso-  
12      lution disapproving the Secretary's proposed adjust-  
13      ment is enacted into law.

14           “(5) CONTRACTS.—

15           “(A) CONTRACTS UNDER SECTION 302.—

16           Subsequent to the date of enactment of this  
17           Act, the contracts executed under section  
18           302(a) of the Nuclear Waste Policy Act of 1982  
19           shall continue in effect under this Act in ac-  
20           cordance with their terms, except to the extent  
21           that such contracts have been modified by the  
22           parties to such contracts.

23           “(B) CONTRACTS UNDER THIS ACT.—Con-  
24           tracts entered into under paragraph (1) of this  
25           subsection shall provide that—

1                   “(i) following commencement of oper-  
2                   ation of a repository, the Secretary shall  
3                   take title to the spent nuclear fuel or high-  
4                   level radioactive waste involved as expedi-  
5                   tiously as practicable upon the request of  
6                   the generator or owner of such spent fuel  
7                   or waste; and

8                   “(ii) in return for the payment of fees  
9                   established by this section, the Secretary  
10                  shall as expeditiously as practicable dispose  
11                  of the high-level radioactive waste or spent  
12                  nuclear fuel involved.

13               “(6) NOTICE OF CONTRACT AMENDMENTS.—  
14               With respect to any contract entered into under sec-  
15               tion 302(a) of the Nuclear Waste Policy Act of 1982  
16               and continued in effect under paragraph (5)(A), an  
17               offer to amend such a contract may only be pro-  
18               posed by the Secretary or another party to the con-  
19               tract if the Secretary or other party has given notice  
20               of such offer to the public.

21               “(7) AUTHORITY TO BRING OR MAINTAIN AN  
22               ACTION.—If any party to a contract continued under  
23               paragraph (5)(A) intends to have its spent nuclear  
24               fuel or high-level radioactive waste stored in the in-  
25               terim storage facility established under section 104



1 of this Act or to have the Secretary take title under  
2 subsection (i) of such section to its spent nuclear  
3 fuel or high-level radioactive waste for the purpose  
4 of on-site storage, such party—

5 “(A) shall notify the Secretary of its intent  
6 to enter into such contract amendments as may  
7 be required; and

8 “(B) upon the effective date of such con-  
9 tract amendments, shall be deemed to have  
10 waived any authority to bring or maintain an  
11 action against the Secretary (other than an ac-  
12 tion for costs incurred before such effective  
13 date) for failure to accept its spent nuclear fuel  
14 in accordance with section 302(a)(5)(B) of the  
15 Nuclear Waste Policy Act of 1982.

16 “(8) LIABILITY.—Nothing in this Act shall be  
17 construed to subject the United States to financial  
18 liability for any failure of the Secretary to meet any  
19 deadline established in this Act.

20 “(b) ADVANCE CONTRACTING REQUIREMENT.—

21 “(1) LICENSE ISSUANCE AND RENEWAL.—

22 “(A) IN GENERAL.—The Commission shall  
23 not issue or renew a license to any person to  
24 use a utilization or production facility under the  
25 authority of section 103 or 104 of the Atomic

1 Energy Act of 1954 (42 U.S.C. 2133, 2134)

2 unless—

3 “(i) such person has entered into a  
4 contract with the Secretary under this sec-  
5 tion; or

6 “(ii) the Secretary affirms in writing  
7 that such person is actively and in good  
8 faith negotiating with the Secretary for a  
9 contract under this section.

10 “(B) PRECONDITION.—The Commission,  
11 as it deems necessary or appropriate, may re-  
12 quire as a precondition to the issuance or re-  
13 newal of a license under section 103 or 104 of  
14 the Atomic Energy Act of 1954 (42 U.S.C.  
15 2133, 2134) that the applicant for such license  
16 shall have entered into an agreement with the  
17 Secretary for the disposal of high-level radio-  
18 active waste and spent nuclear fuel that may  
19 result from the use of such license.

20 “(2) CONTRACT REQUIREMENT.—Except as  
21 provided in paragraph (1), no spent nuclear fuel or  
22 high-level radioactive waste generated or owned by  
23 any person (other than a department of the United  
24 States referred to in section 101 or 102 of title 5,  
25 United States Code) may be stored or disposed of by

1       the Secretary in any facility constructed under this  
2       Act unless the generator or owner of such spent fuel  
3       or waste has entered into a contract with the Sec-  
4       retary under this section by not later than the date  
5       on which such generator or owner commences gen-  
6       eration of, or takes title to, such spent fuel or waste.

7           “(3) ASSIGNABLE RIGHTS AND DUTIES.—The  
8       rights and duties of a party to a contract entered  
9       into under this section may be assignable with trans-  
10      fer of title to the spent nuclear fuel or high-level ra-  
11      dioactive waste involved.

12          “(4) GOVERNMENT FUEL AND WASTE.—No  
13      high-level radioactive waste or spent nuclear fuel  
14      generated or owned by any department of the  
15      United States referred to in section 101 or 102 of  
16      title 5, United States Code, may be stored or dis-  
17      posed of by the Secretary in any facility constructed  
18      under this Act unless such department transfers to  
19      the Secretary, for deposit in the Nuclear Waste  
20      Fund, amounts equivalent to the fees that would be  
21      paid to the Secretary under the contracts referred to  
22      in this section if such waste or spent fuel were gen-  
23      erated by any other person.

24          “(c) NUCLEAR WASTE FUND.—The Nuclear Waste  
25      Fund established in the Treasury of the United States

1 under section 302(c) of the Nuclear Waste Policy Act of  
2 1982 shall continue in effect under this Act. The Nuclear  
3 Waste Fund shall consist of—

4 “(1) all receipts, proceeds, and recoveries real-  
5 ized by the Secretary under subsections (a), (b), and  
6 (e), which shall be deposited in the Nuclear Waste  
7 Fund immediately upon their realization;

8 “(2) any appropriations made by the Congress  
9 to the Nuclear Waste Fund; and

10 “(3) any unexpended balances available on the  
11 date of enactment of this Act for the disposal of  
12 spent nuclear fuel or high-level radioactive waste,  
13 which shall automatically be transferred to the Nu-  
14 clear Waste Fund on such date.

15 “(d) USE OF NUCLEAR WASTE FUND.—The Sec-  
16 retary may make expenditures from the Nuclear Waste  
17 Fund, subject to subsection (e), only for purposes of the  
18 integrated management system.

19 “(e) ADMINISTRATION OF NUCLEAR WASTE  
20 FUND.—

21 “(1) SECRETARY OF THE TREASURY.—The  
22 Secretary of the Treasury shall hold the Nuclear  
23 Waste Fund and, after consultation with the Sec-  
24 retary, annually report to the Congress on the finan-

1        cial condition and operations of the Nuclear Waste  
2        Fund during the preceding fiscal year.

3            “(2) BUDGET.—The Secretary shall submit the  
4        budget of the Nuclear Waste Fund to the Office of  
5        Management and Budget annually along with the  
6        budget of the Department of Energy submitted at  
7        such time in accordance with chapter 11 of title 31,  
8        United States Code. The budget of the Nuclear  
9        Waste Fund shall consist of the estimates made by  
10       the Secretary of expenditures from the Nuclear  
11       Waste Fund and other relevant financial matters for  
12       the succeeding 3 fiscal years. The Secretary may  
13       make expenditures from the Nuclear Waste Fund,  
14       subject to appropriations which shall remain avail-  
15       able until expended.

16           “(3) INVESTMENT OF EXCESS.—If the Sec-  
17        retary determines that the Nuclear Waste Fund con-  
18        tains at any time amounts in excess of current  
19        needs, the Secretary may request the Secretary of  
20        the Treasury to invest such amounts, or any portion  
21        of such amounts as the Secretary determines to be  
22        appropriate, in obligations of the United States—

23            “(A) having maturities determined by the  
24        Secretary of the Treasury to be appropriate to  
25        the needs of the Nuclear Waste Fund; and

1           “(B) bearing interest at rates determined  
2           to be appropriate by the Secretary of the Treas-  
3           ury, taking into consideration the current aver-  
4           age market yield on outstanding marketable ob-  
5           ligations of the United States with remaining  
6           periods to maturity comparable to the matu-  
7           rities of such investments, except that the inter-  
8           est rate on such investments shall not exceed  
9           the average interest rate applicable to existing  
10          borrowings.

11          “(4) EXEMPTION.—Receipts, proceeds, and re-  
12          coveries realized by the Secretary under this section,  
13          and expenditures of amounts from the Nuclear  
14          Waste Fund, shall be exempt from annual appor-  
15          tionment under the provisions of subchapter II of  
16          chapter 15 of title 31, United States Code.

17          “(5) OBLIGATIONS.—If at any time the moneys  
18          available in the Nuclear Waste Fund are insufficient  
19          to enable the Secretary to discharge the Secretary’s  
20          responsibilities under this Act, the Secretary shall  
21          issue to the Secretary of the Treasury obligations in  
22          such forms and denominations, bearing such matu-  
23          rities, and subject to such terms and conditions as  
24          may be agreed to by the Secretary and the Secretary  
25          of the Treasury. The total of such obligations shall

1 not exceed amounts provided in appropriation Acts.  
2 Redemption of such obligations shall be made by the  
3 Secretary from moneys available in the Nuclear  
4 Waste Fund. Such obligations shall bear interest at  
5 a rate determined by the Secretary of the Treasury,  
6 which shall be not less than a rate determined by  
7 taking into consideration the average market yield  
8 on outstanding marketable obligations of the United  
9 States of comparable maturities during the month  
10 preceding the issuance of the obligations under this  
11 paragraph. The Secretary of the Treasury shall pur-  
12 chase any issued obligations, and for such purpose  
13 the Secretary of the Treasury is authorized to use  
14 as a public debt transaction the proceeds from the  
15 sale of any securities issued under chapter 31 of title  
16 31, United States Code, and the purposes for which  
17 securities may be issued under such chapter are ex-  
18 tended to include any purchase of such obligations.  
19 The Secretary of the Treasury may at any time sell  
20 any of the obligations acquired by him under this  
21 paragraph. All redemptions, purchases, and sales by  
22 the Secretary of the Treasury of obligations under  
23 this paragraph shall be treated as public debt trans-  
24 actions of the United States.

1           “(6) REPAYMENT.—Any appropriations made  
2           available to the Nuclear Waste Fund under para-  
3           graph (5) shall be repaid into the general fund of  
4           the Treasury, together with interest from the date of  
5           availability of the appropriations until the date of re-  
6           payment. Such interest shall be paid on the cumu-  
7           lative amount of appropriations available to the Nu-  
8           clear Waste Fund, less the average undisbursed cash  
9           balance in the Nuclear Waste Fund account during  
10          the fiscal year involved. The rate of such interest  
11          shall be determined by the Secretary of the Treasury  
12          taking into consideration the average market yield  
13          during the month preceding each fiscal year on out-  
14          standing marketable obligations of the United States  
15          of comparable maturity. Interest payments may be  
16          deferred with the approval of the Secretary of the  
17          Treasury, but any interest payments so deferred  
18          shall themselves bear interest.

19          “(f) BUDGET STATUS OF NUCLEAR WASTE FUND.—  
20          Notwithstanding any other provision of law, the receipts  
21          and disbursements of the Nuclear Waste Fund shall not  
22          be counted as new budget authority, outlays, receipts, or  
23          deficit or surplus for purposes of—

24                 “(1) the budget of the United States Govern-  
25          ment as submitted by the President;



1           “(2) the congressional budget; or

2           “(3) the Balanced Budget and Emergency Def-  
3       icit Control Act of 1985.

4       **“SEC. 302. OFFICE OF CIVILIAN RADIOACTIVE WASTE MAN-**  
5                               **AGEMENT.**

6           “(a) CONTINUATION OF OFFICE OF CIVILIAN RADIO-  
7       ACTIVE WASTE MANAGEMENT.—The Office of Civilian  
8       Radioactive Waste Management established under section  
9       304(a) of the Nuclear Waste Policy Act of 1982 as con-  
10      stituted before the date of enactment of this Act, shall  
11      continue in effect subsequent to the date of enactment of  
12      this Act.

13          “(b) FUNCTIONS OF DIRECTOR.—The Director of the  
14      Office shall be responsible for carrying out the functions  
15      of the Secretary under this Act, subject to the general su-  
16      pervision of the Secretary. The Director of the Office shall  
17      be directly responsible to the Secretary.

18          “(c) AUDITS.—

19               “(1) STANDARD.—The Office of Civilian Radio-  
20      active Waste Management, its contractors, and sub-  
21      contractors at all tiers, shall conduct, or have con-  
22      ducted, audits and examinations of their operations  
23      in accordance with the usual and customary prac-  
24      tices of private corporations engaged in large nuclear

1 construction projects consistent with its role in the  
2 program.

3 “(2) TIME.—The management practices and  
4 performances of the Office of Civilian Radioactive  
5 Waste Management shall be audited every 5 years  
6 by an independent management consulting firm with  
7 significant experience in similar audits of private  
8 corporations engaged in large nuclear construction  
9 projects. The first such audit shall be conducted 5  
10 years after the date of enactment of this Act.

11 “(3) COMPTROLLER GENERAL.—The Comp-  
12 troller General of the United States shall annually  
13 make an audit of the Office, in accordance with such  
14 regulations as the Comptroller General may pre-  
15 scribe. The Comptroller General shall have access to  
16 such books, records, accounts, and other materials of  
17 the Office as the Comptroller General determines to  
18 be necessary for the preparation of such audit. The  
19 Comptroller General shall submit to the Congress a  
20 report on the results of each audit conducted under  
21 this section.

22 “(4) TIME.—No audit contemplated by this  
23 subsection shall take longer than 30 days to con-  
24 duct. An audit report shall be issued in final form

1 no longer than 60 days after the audit is com-  
2 menced.

3 “(5) PUBLIC DOCUMENTS.—All audit reports  
4 shall be public documents and available to any indi-  
5 vidual upon request.

6 **“SEC. 303. DEFENSE CONTRIBUTION.**

7 “(a) ALLOCATION.—No later than one year from the  
8 date of enactment of this Act, acting pursuant to section  
9 553 of title 5, United States Code, the Secretary shall  
10 issue a final rule establishing the appropriate portion of  
11 the costs of managing spent nuclear fuel and high-level  
12 radioactive waste under this Act allocable to the interim  
13 storage or permanent disposal of spent nuclear fuel and  
14 high-level radioactive waste from atomic energy defense  
15 activities and spent nuclear fuel from foreign research re-  
16 actors. The share of costs allocable to the management  
17 of spent nuclear fuel and high-level radioactive waste from  
18 atomic energy defense activities and spent nuclear fuel  
19 from foreign research reactors shall include—

20 “(1) an appropriate portion of the costs associ-  
21 ated with research and development activities with  
22 respect to development of the interim storage facility  
23 and repository; and

24 “(2) interest on the principal amounts due cal-  
25 culated by reference to the appropriate Treasury bill

1 rate as if the payments were made at a point in time  
2 consistent with the payment dates for spent nuclear  
3 fuel and high-level radioactive waste under the con-  
4 tracts.

5 “(b) APPROPRIATION REQUEST.—In addition to any  
6 request for an appropriation from the Nuclear Waste  
7 Fund, the Secretary shall request annual appropriations  
8 from general revenues in amounts sufficient to pay the  
9 costs of the management of materials described in sub-  
10 section (a).

11 “(c) REPORT.—The Secretary shall advise the Con-  
12 gress annually of the amount of spent nuclear fuel and  
13 high-level radioactive waste from atomic energy defense  
14 activities and spent nuclear fuel from foreign research re-  
15 actors requiring management in the integrated manage-  
16 ment system.

17 “(d) AUTHORIZATION.—There is authorized to be ap-  
18 propriated to the Secretary, from general revenues, for  
19 carrying out the purposes of this Act, such sums as may  
20 be necessary to pay the costs of the management of spent  
21 nuclear fuel and high-level radioactive waste from atomic  
22 energy defense activities as established under subsection  
23 (a).

1           **“TITLE IV—GENERAL AND**  
2           **MISCELLANEOUS PROVISIONS**

3           **“SEC. 401. COMPLIANCE WITH OTHER LAWS.**

4           “If the requirements of any law are inconsistent with  
5 or duplicative of the requirements of the Atomic Energy  
6 Act of 1954 (42 U.S.C. 2011 et seq.) and this Act, the  
7 Secretary shall comply only with the requirements of the  
8 Atomic Energy Act of 1954 and this Act in implementing  
9 the integrated management system. Any requirement of  
10 a State or political subdivision of a State is preempted  
11 if—

12                   “(1) complying with such requirement and a re-  
13                   quirement of this Act is impossible; or

14                   “(2) such requirement, as applied or enforced,  
15                   is an obstacle to accomplishing or carrying out this  
16                   Act or a regulation under this Act.

17           **“SEC. 402. WATER RIGHTS.**

18           “(a) NO FEDERAL RESERVATION.—Nothing in this  
19 Act or any other Act of Congress shall constitute or be  
20 construed to constitute either an express or implied Fed-  
21 eral reservation of water or water rights for any purpose  
22 arising under this Act.

23           “(b) ACQUISITION AND EXERCISE OF WATER  
24 RIGHTS UNDER NEVADA LAW.—The United States may  
25 acquire and exercise such water rights as it deems nec-

1    essary to carry out its responsibilities under this Act pur-  
2    suant to the substantive and procedural requirements of  
3    the State of Nevada. Nothing in this Act shall be con-  
4    strued to authorize the use of eminent domain by the  
5    United States to acquire water rights.

6       “(c) EXERCISE OF WATER RIGHTS GENERALLY  
7    UNDER NEVADA LAWS.—Nothing in this Act shall be con-  
8    strued to limit the exercise of water rights as provided  
9    under Nevada State laws.

10   **“SEC. 403. JUDICIAL REVIEW OF AGENCY ACTIONS.**

11       “(a) JURISDICTION OF UNITED STATES COURTS OF  
12    APPEALS.—

13           “(1) ORIGINAL AND EXCLUSIVE JURISDIC-  
14    TION.—Except for review in the Supreme Court of  
15    the United States, and except as otherwise provided  
16    in this Act, the United States courts of appeals shall  
17    have original and exclusive jurisdiction over any civil  
18    action—

19           “(A) for review of any final decision or ac-  
20    tion of the Secretary, the President, or the  
21    Commission under this Act;

22           “(B) alleging the failure of the Secretary,  
23    the President, or the Commission to make any  
24    decision, or take any action, required under this  
25    Act;

1           “(C) challenging the constitutionality of  
2           any decision made, or action taken, under any  
3           provision of this Act; or

4           “(D) for review of any environmental im-  
5           pact statement prepared or environmental as-  
6           sessment made pursuant to the National Envi-  
7           ronmental Policy Act of 1969 (42 U.S.C. 4321  
8           et seq.) with respect to any action under this  
9           Act or alleging a failure to prepare such state-  
10          ment with respect to any such action.

11          “(2) VENUE.—The venue of any proceeding  
12          under this section shall be in the judicial circuit in  
13          which the petitioner involved resides or has its prin-  
14          cipal office, or in the United States Court of Appeals  
15          for the District of Columbia.

16          “(b) DEADLINE FOR COMMENCING ACTION.—A civil  
17          action for judicial review described under subsection (a)(1)  
18          may be brought no later than 180 days after the date of  
19          the decision or action or failure to act involved, as the  
20          case may be, except that if a party shows that the party  
21          did not know of the decision or action complained of or  
22          of the failure to act, and that a reasonable person acting  
23          under the circumstances would not have known of such  
24          decision, action, or failure to act, such party may bring  
25          a civil action no later than 180 days after the date such

1 party acquired actual or constructive knowledge of such  
2 decision, action, or failure to act.

3 “(c) APPLICATION OF OTHER LAW.—The provisions  
4 of this section relating to any matter shall apply in lieu  
5 of the provisions of any other Act relating to the same  
6 matter.

7 **“SEC. 404. LICENSING OF FACILITY EXPANSIONS AND**  
8 **TRANSSHIPMENTS.**

9 “(a) ORAL ARGUMENT.—In any Commission hearing  
10 under section 189 of the Atomic Energy Act of 1954 (42  
11 U.S.C. 2239) on an application for a license, or for an  
12 amendment to an existing license, filed after January 7,  
13 1983, to expand the spent nuclear fuel storage capacity  
14 at the site of a civilian nuclear power reactor, through the  
15 use of high-density fuel storage racks, fuel rod compac-  
16 tion, the transshipment of spent nuclear fuel to another  
17 civilian nuclear power reactor within the same utility sys-  
18 tem, the construction of additional spent nuclear fuel pool  
19 capacity or dry storage capacity, or by other means, the  
20 Commission shall, at the request of any party, provide an  
21 opportunity for oral argument with respect to any matter  
22 which the Commission determines to be in controversy  
23 among the parties. The oral argument shall be preceded  
24 by such discovery procedures as the rules of the Commis-  
25 sion shall provide. The Commission shall require each



1 party, including the Commission staff, to submit in writ-  
2 ten form, at the time of the oral argument, a summary  
3 of the facts, data, and arguments upon which such party  
4 proposes to rely that are known at such time to such  
5 party. Only facts and data in the form of sworn testimony  
6 or written submission may be relied upon by the parties  
7 during oral argument. Of the materials that may be sub-  
8 mitted by the parties during oral argument, the Commis-  
9 sion shall only consider those facts and data that are sub-  
10 mitted in the form of sworn testimony or written submis-  
11 sion.

12 “(b) ADJUDICATORY HEARING.—

13 “(1) DESIGNATION.—At the conclusion of any  
14 oral argument under subsection (a), the Commission  
15 shall designate any disputed question of fact, to-  
16 gether with any remaining questions of law, for reso-  
17 lution in an adjudicatory hearing only if it deter-  
18 mines that—

19 “(A) there is a genuine and substantial  
20 dispute of fact which can only be resolved with  
21 sufficient accuracy by the introduction of evi-  
22 dence in an adjudicatory hearing; and

23 “(B) the decision of the Commission is  
24 likely to depend in whole or in part on the reso-  
25 lution of such dispute.

1           “(2) DETERMINATION.—In making a deter-  
2           mination under this subsection, the Commission—

3           “(A) shall designate in writing the specific  
4           facts that are in genuine and substantial dis-  
5           pute, the reason why the decision of the agency  
6           is likely to depend on the resolution of such  
7           facts, and the reason why an adjudicatory hear-  
8           ing is likely to resolve the dispute; and

9           “(B) shall not consider—

10           “(i) any issue relating to the design,  
11           construction, or operation of any civilian  
12           nuclear power reactor already licensed to  
13           operate at such site, or any civilian nuclear  
14           power reactor to which a construction per-  
15           mit has been granted at such site, unless  
16           the Commission determines that any such  
17           issue substantially affects the design, con-  
18           struction, or operation of the facility or ac-  
19           tivity for which such license application,  
20           authorization, or amendment is being con-  
21           sidered; or

22           “(ii) any siting or design issue fully  
23           considered and decided by the Commission  
24           in connection with the issuance of a con-  
25           struction permit or operating license for a

1                   civilian nuclear power reactor at such site,  
2                   unless—

3                               “(I) such issue results from any  
4                               revision of siting or design criteria by  
5                               the Commission following such deci-  
6                               sion; and

7                               “(II) the Commission determines  
8                               that such issue substantially affects  
9                               the design, construction, or operation  
10                              of the facility or activity for which  
11                              such license application, authorization,  
12                              or amendment is being considered.

13                   “(3) APPLICATION.—The provisions of para-  
14                   graph (2)(B) shall apply only with respect to li-  
15                   censes, authorizations, or amendments to licenses or  
16                   authorizations, applied for under the Atomic Energy  
17                   Act of 1954 (42 U.S.C. 2011 et seq.) before Janu-  
18                   ary 1, 2015.

19                   “(4) CONSTRUCTION.—The provisions of this  
20                   section shall not apply to the first application for a  
21                   license or license amendment received by the Com-  
22                   mission to expand on-site spent fuel storage capacity  
23                   by the use of a new technology not previously ap-  
24                   proved for use at any nuclear power plant by the  
25                   Commission.

1       “(c) JUDICIAL REVIEW.—No court shall hold unlaw-  
2 ful or set aside a decision of the Commission in any pro-  
3 ceeding described in subsection (a) because of a failure  
4 by the Commission to use a particular procedure pursuant  
5 to this section unless—

6           “(1) an objection to the procedure used was  
7 presented to the Commission in a timely fashion or  
8 there are extraordinary circumstances that excuse  
9 the failure to present a timely objection; and

10          “(2) the court finds that such failure has pre-  
11 cluded a fair consideration and informed resolution  
12 of a significant issue of the proceeding taken as a  
13 whole.

14 **“SEC. 405. SITING A SECOND REPOSITORY.**

15       “(a) CONGRESSIONAL ACTION REQUIRED.—The Sec-  
16 retary may not conduct site-specific activities with respect  
17 to a second repository unless Congress has specifically au-  
18 thorized and appropriated funds for such activities.

19       “(b) REPORT.—The Secretary shall report to the  
20 President and to Congress on or after January 1, 2007,  
21 but not later than January 1, 2010, on the need for a  
22 second repository.

23 **“SEC. 406. FINANCIAL ARRANGEMENTS FOR LOW-LEVEL**  
24 **RADIOACTIVE WASTE SITE CLOSURE.**

25       “(a) FINANCIAL ARRANGEMENTS.—

1           “(1) STANDARDS AND INSTRUCTIONS.—The  
2       Commission shall establish by rule, regulation, or  
3       order, after public notice, and in accordance with  
4       section 181 of the Atomic Energy Act of 1954 (42  
5       U.S.C. 2231), such standards and instructions as  
6       the Commission may deem necessary or desirable to  
7       ensure in the case of each license for the disposal of  
8       low-level radioactive waste that an adequate bond,  
9       surety, or other financial arrangement (as deter-  
10      mined by the Commission) will be provided by a li-  
11      censee to permit completion of all requirements es-  
12      tablished by the Commission for the decontamina-  
13      tion, decommissioning, site closure, and reclamation  
14      of sites, structures, and equipment used in conjunc-  
15      tion with such low-level radioactive waste. Such fi-  
16      nancial arrangements shall be provided and ap-  
17      proved by the Commission, or, in the case of sites  
18      within the boundaries of any agreement State under  
19      section 274 of the Atomic Energy Act of 1954 (42  
20      U.S.C. 2021), by the appropriate State or State en-  
21      tity, before issuance of licenses for low-level radio-  
22      active waste disposal or, in the case of licenses in ef-  
23      fect on January 7, 1983, before termination of such  
24      licenses.

1           “(2) BONDING, SURETY, OR OTHER FINANCIAL  
2     ARRANGEMENTS.—If the Commission determines  
3     that any long-term maintenance or monitoring, or  
4     both, will be necessary at a site described in para-  
5     graph (1), the Commission shall ensure before termi-  
6     nation of the license involved that the licensee has  
7     made available such bonding, surety, or other finan-  
8     cial arrangements as may be necessary to ensure  
9     that any necessary long-term maintenance or moni-  
10    toring needed for such site will be carried out by the  
11    person having title and custody for such site fol-  
12    lowing license termination.

13           “(b) TITLE AND CUSTODY.—

14           “(1) AUTHORITY OF SECRETARY.—The Sec-  
15    retary shall have authority to assume title and cus-  
16    tody of low-level radioactive waste and the land on  
17    which such waste is disposed of, upon request of the  
18    owner of such waste and land and following termi-  
19    nation of the license issued by the Commission for  
20    such disposal, if the Commission determines that—

21           “(A) the requirements of the Commission  
22    for site closure, decommissioning, and decon-  
23    tamination have been met by the licensee in-  
24    volved and that such licensee is in compliance  
25    with the provisions of subsection (a);

1           “(B) such title and custody will be trans-  
2           ferred to the Secretary without cost to the Fed-  
3           eral Government; and

4           “(C) Federal ownership and management  
5           of such site is necessary or desirable in order to  
6           protect the public health and safety and the en-  
7           vironment.

8           “(2) PROTECTION.—If the Secretary assumes  
9           title and custody of any such waste and land under  
10          this subsection, the Secretary shall maintain such  
11          waste and land in a manner that will protect the  
12          public health and safety and the environment.

13          “(c) SPECIAL SITES.—If the low-level radioactive  
14          waste involved is the result of a licensed activity to recover  
15          zirconium, hafnium, and rare earths from source material,  
16          the Secretary, upon request of the owner of the site in-  
17          volved, shall assume title and custody of such waste and  
18          the land on which it is disposed when such site has been  
19          decontaminated and stabilized in accordance with the re-  
20          quirements established by the Commission and when such  
21          owner has made adequate financial arrangements ap-  
22          proved by the Commission for the long-term maintenance  
23          and monitoring of such site.

1   **“SEC. 407. NUCLEAR REGULATORY COMMISSION TRAINING**  
2                   **AUTHORIZATION.**

3           “The Commission shall promulgate regulations, or  
4 other appropriate regulatory guidance, for the training  
5 and qualifications of civilian nuclear powerplant operators,  
6 supervisors, technicians, and other appropriate operating  
7 personnel. Such regulations or guidance shall establish  
8 simulator training requirements for applicants for civilian  
9 nuclear powerplant operator licenses and for operator re-  
10 qualification programs; requirements governing Commis-  
11 sion administration of requalification examinations; re-  
12 quirements for operating tests at civilian nuclear power-  
13 plant simulators, and instructional requirements for civil-  
14 ian nuclear powerplant licensee personnel training pro-  
15 grams.

16   **“SEC. 408. SUBSEABED OR OCEAN WATER DISPOSAL.**

17           “Notwithstanding any other provision of law—

18                   “(1) the subseabed or ocean water disposal of  
19 spent nuclear fuel or high-level radioactive waste is  
20 prohibited; and

21                   “(2) no funds shall be obligated for any activity  
22 relating to the subseabed or ocean water disposal of  
23 spent nuclear fuel or high-level radioactive waste.



1   **“SEC. 409. PURCHASE OF AMERICAN-MADE EQUIPMENT**  
2                   **AND PRODUCTS.**

3           “(a) IN GENERAL.—It is the sense of the Congress  
4   that, to the greatest extent practicable, all equipment and  
5   products purchased with funds made available under this  
6   Act should be American-made.

7           “(b) NOTICE REQUIREMENT.—In providing financial  
8   assistance to, or entering into any contract with, any enti-  
9   ty using funds made available under this Act, the head  
10   of each Federal agency, to the greatest extent practicable,  
11   shall provide to such entity a notice describing the state-  
12   ment made in subsection (a) by the Congress.

13          “(c) PROHIBITION OF CONTRACTS WITH PERSONS  
14   FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—  
15   If it has been finally determined by a court or Federal  
16   agency that any person intentionally affixed a label bear-  
17   ing a “Made in America” inscription, or any inscription  
18   with the same meaning, to any product sold in or shipped  
19   to the United States that is not made in the United  
20   States, the person shall be ineligible to receive any con-  
21   tract or subcontract made with funds made available  
22   under this Act, pursuant to the debarment, suspension,  
23   and ineligibility procedures described in sections 9.400  
24   through 9.409 of title 48, Code of Federal Regulations.

1   **“SEC. 410. SEPARABILITY.**

2           “If any provision of this Act, or the application of  
3 such provision to any person or circumstance, is held to  
4 be invalid, the remainder of this Act, or the application  
5 of such provision to persons or circumstances other than  
6 those as to which it is held to be invalid, shall not be af-  
7 fected thereby.

8           **“TITLE V—NUCLEAR WASTE**  
9           **TECHNICAL REVIEW BOARD**

10   **“SEC. 501. DEFINITIONS.**

11           “For purposes of this title—

12                   “(1) CHAIRMAN.—The term ‘Chairman’ means  
13 the Chairman of the Nuclear Waste Technical Re-  
14 view Board.

15                   “(2) BOARD.—The term ‘Board’ means the Nu-  
16 clear Waste Technical Review Board continued  
17 under section 502.

18   **“SEC. 502. NUCLEAR WASTE TECHNICAL REVIEW BOARD.**

19           “(a) CONTINUATION OF NUCLEAR WASTE TECH-  
20 NICAL REVIEW BOARD.—The Nuclear Waste Technical  
21 Review Board, established under section 502(a) of the Nu-  
22 clear Waste Policy Act of 1982 as constituted before the  
23 date of enactment of this Act, shall continue in effect sub-  
24 sequent to the date of enactment of this Act.

25           “(b) MEMBERS.—

1           “(1) NUMBER.—The Board shall consist of 11  
2           members who shall be appointed by the President  
3           not later than 90 days after December 22, 1987,  
4           from among persons nominated by the National  
5           Academy of Sciences in accordance with paragraph  
6           (3).

7           “(2) CHAIR.—The President shall designate a  
8           member of the Board to serve as Chairman.

9           “(3) NATIONAL ACADEMY OF SCIENCES.—

10           “(A) NOMINATIONS.—The National Acad-  
11           emy of Sciences shall, not later than 90 days  
12           after December 22, 1987, nominate not less  
13           than 22 persons for appointment to the Board  
14           from among persons who meet the qualifica-  
15           tions described in subparagraph (C).

16           “(B) VACANCIES.—The National Academy  
17           of Sciences shall nominate not less than 2 per-  
18           sons to fill any vacancy on the Board from  
19           among persons who meet the qualifications de-  
20           scribed in subparagraph (C).

21           “(C) NOMINEES.—

22           “(i) Each person nominated for ap-  
23           pointment to the Board shall be—

1                   “(I) eminent in a field of science  
2                   or engineering, including environ-  
3                   mental sciences; and

4                   “(II) selected solely on the basis  
5                   of established records of distinguished  
6                   service.

7                   “(ii) The membership of the Board  
8                   shall be representatives of the broad range  
9                   of scientific and engineering disciplines re-  
10                  lated to activities under this title.

11                  “(iii) No person shall be nominated  
12                  for appointment to the Board who is an  
13                  employee of—

14                   “(I) the Department of Energy;

15                   “(II) a national laboratory under  
16                   contract with the Department of En-  
17                   ergy; or

18                   “(III) an entity performing spent  
19                   nuclear fuel or high-level radioactive  
20                   waste activities under contract with  
21                   the Department of Energy.

22                  “(4) VACANCIES.—Any vacancy on the Board  
23                  shall be filled by the nomination and appointment  
24                  process described in paragraphs (1) and (3).

1           “(5) TERMS.—Members of the Board shall be  
2           appointed for terms of 4 years, each such term to  
3           commence 120 days after December 22, 1987, ex-  
4           cept that of the 11 members first appointed to the  
5           Board, 5 shall serve for 2 years and 6 shall serve  
6           for 4 years, to be designated by the President at the  
7           time of appointment, except that a member of the  
8           Board whose term has expired may continue to serve  
9           as a member of the Board until such member’s suc-  
10          cessor has taken office.

11   **“SEC. 503. FUNCTIONS.**

12          “The Board shall evaluate the technical and scientific  
13       validity of activities undertaken by the Secretary after De-  
14       cember 22, 1987, including—

15               “(1) site characterization activities; and

16               “(2) activities relating to the packaging or  
17       transportation of spent nuclear fuel or high-level ra-  
18       dioactive waste.

19   **“SEC. 504. INVESTIGATORY POWERS.**

20          “(a) HEARINGS.—Upon request of the Chairman or  
21       a majority of the members of the Board, the Board may  
22       hold such hearings, sit and act at such times and places,  
23       take such testimony, and receive such evidence, as the  
24       Board considers appropriate. Any member of the Board

1 may administer oaths or affirmations to witnesses appear-  
2 ing before the Board.

3 “(b) PRODUCTION OF DOCUMENTS.—

4 “(1) RESPONSE TO INQUIRIES.—Upon the re-  
5 quest of the Chairman or a majority of the members  
6 of the Board, and subject to existing law, the Sec-  
7 retary (or any contractor of the Secretary) shall pro-  
8 vide the Board with such records, files, papers, data,  
9 or information as may be necessary to respond to  
10 any inquiry of the Board under this title.

11 “(2) EXTENT.—Subject to existing law, infor-  
12 mation obtainable under paragraph (1) shall not be  
13 limited to final work products of the Secretary, but  
14 shall include drafts of such products and documenta-  
15 tion of work in progress.

16 **“SEC. 505. COMPENSATION OF MEMBERS.**

17 “(a) IN GENERAL.—Each member of the Board  
18 shall, subject to appropriations, be paid at the rate of pay  
19 payable for level III of the Executive Schedule for each  
20 day (including travel time) such member is engaged in the  
21 work of the Board.

22 “(b) TRAVEL EXPENSES.—Each member of the  
23 Board may receive travel expenses, including per diem in  
24 lieu of subsistence, in the same manner as is permitted

1 under sections 5702 and 5703 of title 5, United States  
2 Code.

3 **“SEC. 506. STAFF.**

4 “(a) CLERICAL STAFF.—

5 “(1) AUTHORITY OF CHAIRMAN.—Subject to  
6 paragraph (2), the Chairman may, subject to appro-  
7 priations, appoint and fix the compensation of such  
8 clerical staff as may be necessary to discharge the  
9 responsibilities of the Board.

10 “(2) PROVISIONS OF TITLE 5.—Clerical staff  
11 shall be appointed subject to the provisions of title  
12 5, United States Code, governing appointments in  
13 the competitive service, and shall be paid in accord-  
14 ance with the provisions of chapter 51 and sub-  
15 chapter III of chapter 3 of such title relating to clas-  
16 sification and General Schedule pay rates.

17 “(b) PROFESSIONAL STAFF.—

18 “(1) AUTHORITY OF CHAIRMAN.—Subject to  
19 paragraphs (2) and (3), the Chairman may, subject  
20 to appropriations, appoint and fix the compensation  
21 of such professional staff as may be necessary to  
22 discharge the responsibilities of the Board.

23 “(2) NUMBER.—Not more than 10 professional  
24 staff members may be appointed under this sub-  
25 section.

1           “(3) TITLE 5.—Professional staff members may  
2       be appointed without regard to the provisions of title  
3       5, United States Code, governing appointments in  
4       the competitive service, and may be paid without re-  
5       gard to the provisions of chapter 51 and subchapter  
6       III of chapter 53 of such title relating to classifica-  
7       tion and General Schedule pay rates, except that no  
8       individual so appointed may receive pay in excess of  
9       the annual rate of basic pay payable for GS-18 of  
10      the General Schedule.

11   **“SEC. 507. SUPPORT SERVICES.**

12       “(a) GENERAL SERVICES.—To the extent permitted  
13   by law and requested by the Chairman, the Administrator  
14   of General Services shall provide the Board with necessary  
15   administrative services, facilities, and support on a reim-  
16   bursable basis.

17       “(b) ACCOUNTING, RESEARCH, AND TECHNOLOGY  
18   ASSESSMENT SERVICES.—The Comptroller General, the  
19   Librarian of Congress, and the Director of the Office of  
20   Technology Assessment shall, to the extent permitted by  
21   law and subject to the availability of funds, provide the  
22   Board with such facilities, support, funds and services, in-  
23   cluding staff, as may be necessary for the effective per-  
24   formance of the functions of the Board.



1       “(c) ADDITIONAL SUPPORT.—Upon the request of  
2 the Chairman, the Board may secure directly from the  
3 head of any department or agency of the United States  
4 information necessary to enable it to carry out this title.

5       “(d) MAILS.—The Board may use the United States  
6 mails in the same manner and under the same conditions  
7 as other departments and agencies of the United States.

8       “(e) EXPERTS AND CONSULTANTS.—Subject to such  
9 rules as may be prescribed by the Board, the Chairman  
10 may, subject to appropriations, procure temporary and  
11 intermittent services under section 3109(b) of title 5 of  
12 the United States Code, but at rates for individuals not  
13 to exceed the daily equivalent of the maximum annual rate  
14 of basic pay payable for GS–18 of the General Schedule.

15   **“SEC. 508. REPORT.**

16       “The Board shall report not less than 2 times per  
17 year to Congress and the Secretary its findings, conclu-  
18 sions, and recommendations.

19   **“SEC. 509. AUTHORIZATION OF APPROPRIATIONS.**

20       “There are authorized to be appropriated for expendi-  
21 tures such sums as may be necessary to carry out the pro-  
22 visions of this title.

23   **“SEC. 510. TERMINATION OF THE BOARD.**

24       “The Board shall cease to exist not later than one  
25 year after the date on which the Secretary begins disposal

1 of spent nuclear fuel or high-level radioactive waste in the  
2 repository.”.

3 **SEC. 2. EFFECT ON PAYGO SCORECARD.**

4       Upon the enactment of this Act, the Director of the  
5 Office of Management and Budget shall not make any es-  
6 timates of changes in direct spending outlays and receipts  
7 under section 252(d) of the Balanced Budget and Emer-  
8 gency Deficit Control Act of 1985 resulting from the en-  
9 actment of section 301 of Nuclear Waste Policy Act of  
10 1999.